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ABSTRACT

Even small groups of child care workers can benefit from clear procedures that help ensure fair treatment and create an atmosphere of security in which staff can concentrate on providing the best possible care for young children. This guide provides child care employers, employees, and volunteers in Great Britain with information about their rights and responsibilities. The guide focuses on small groups and on the need to safeguard children when recruiting the people who work with them. The guide discusses good practice and lists the legal requirements for major aspects of employment that are relevant to small groups, including recruitment, contracts, equality of opportunity, payment, health and safety at work, maternity rights, and disciplinary rules and grievance procedures. The guide also has pages of sample forms and documents, including a contract, pay slip, and interviewing forms, that provide employers with practical resources in the workplace. (EV)

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Starting Points

28

a practical guide

GOOD TO WORK FOR

EMPLOYING STAFF AND WORKING WITH VOLUNTEERS IN SMALL GROUPS

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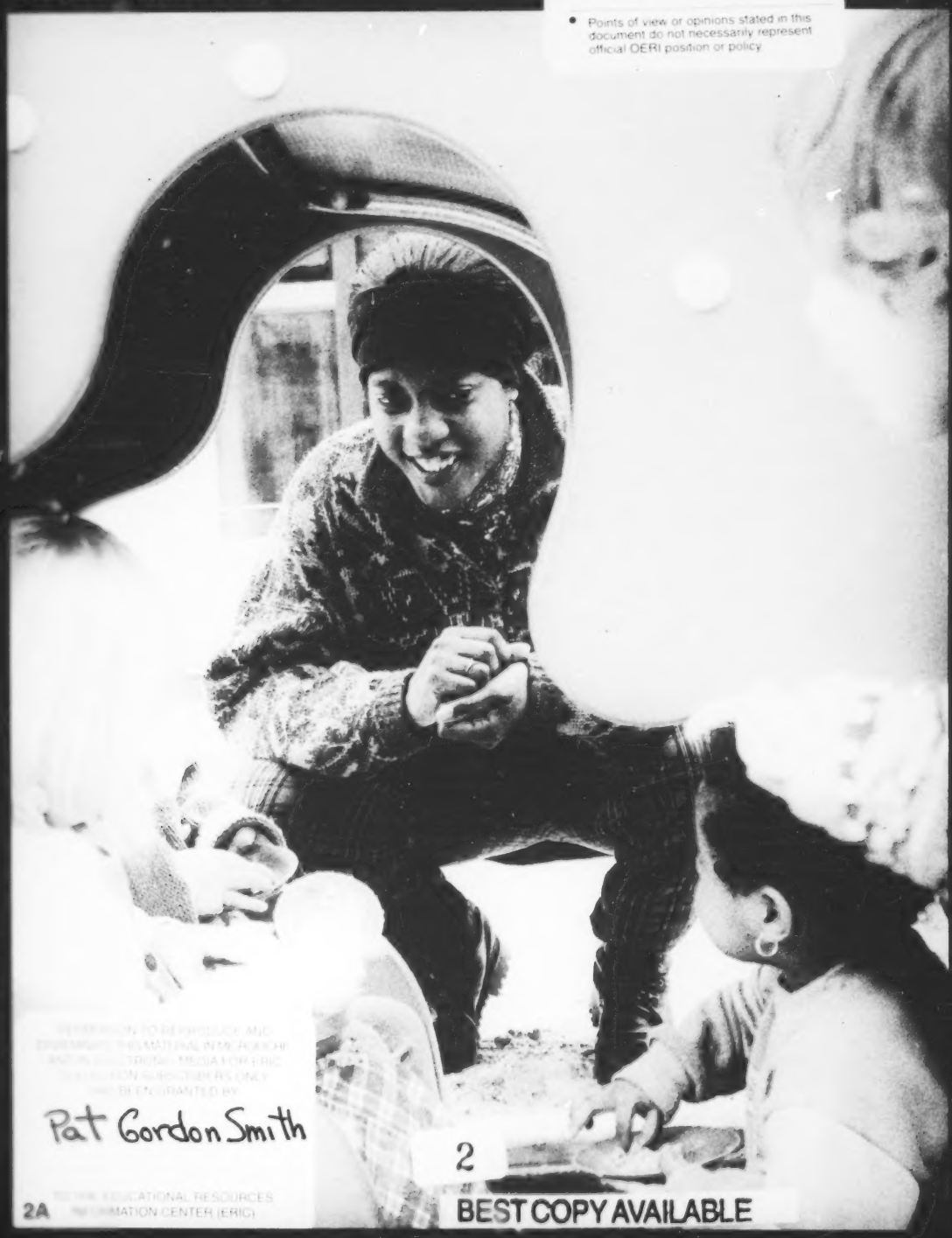
written by Jacki Reason



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Contents

Introduction 3

Part 1 – Information and guidance

Who's who in the organisation 5
Employees' rights and employers' responsibilities 6
Recruitment 8
Contracts 16
Equality of opportunity and discrimination in employment 20
Payment 22
Induction 26
Supervision and appraisal 27
Insurance 29
Health and safety at work 30
Sick pay and leave 33
Maternity rights 34
Disciplinary rules and procedures 36
Grievance procedures 37
Trades unions 38
Writing references 38
Retirement and pensions 39
Redundancy 39
Further reading 41
Useful addresses 42

Part 2 – Sample forms

Application form 44
Monitoring form 49
Shortlisting forms 50
Interviewing forms 52
Letter of appointment 55
Contract 56
Pay slip 64

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Introduction

Good quality childcare services depend on good quality staff. *Good to work for* aims to help employers create the best possible working environment by recommending good working practices and examining the law relating to employment.

Employers should be aware that, whatever the size of the organisation – whether it employs one or one hundred members of staff – managers have responsibilities towards all paid staff and unpaid volunteers. For paid staff, some of these responsibilities are statutory, some are good practice; some apply to all staff, others depend on length of service. Employers have few legal obligations towards volunteers, but an organisation that promotes equality of access and opportunity and that wants to follow good practice should, as far as possible, treat unpaid staff in the same way as paid staff. *Good to work for* explores each of these issues.

Groups that work with young children have the same responsibilities as all employers towards their employees, but they also have extra responsibilities to safeguard the children in their care. *Good to work for* incorporates recommendations from the Home Office's code of practice on child protection,[1] gives clear guidance about statutory requirements and includes suggestions for good practice in relation to staff recruitment and employment.

Any employer who would like to incorporate better terms of employment than the minimum needs to look at possible financial and other implications for their organisation. These are highlighted where necessary.

As with all Starting Points, *Good to work for* aims to provide enough information so that readers are able to carry out tasks without needing to seek advice from somewhere else.

- Part 1 gives information and guidance for good employment practice in running early years groups and details of legislation relating to employment.
- Part 2 includes examples of forms and sample terms and conditions of employment.

Notes, sources of further information and contact addresses are at the end of the book.

Employment legislation changes rapidly. The information was correct in August 1998 and wherever possible we have indicated where changes may be in the pipeline.

Terminology

The following terms are used.

- The most senior employee is referred to as the **manager** or **senior officer**.
- The employing body (who may be directors, trustees or the board of an organisation) is referred to as the **management committee**.
- Members of the management committee are referred to as **committee members**.

Key to text in Part 1

✓ Sections on good practice have this icon at the beginning, and appear in this typeface.

Sections on the law have this icon at the beginning, and look like this.

1 David R. Smith, *Safe From Harm: a code of practice for safeguarding the welfare of children in voluntary organisations in England and Wales* (Home Office, 1993).

part 1

Information and guidance

✓ Who's who in the organisation

Who is the legal employer?

In law, an employer can be an individual or a management committee, and all staff in an organisation are employed by that employer. This applies to every type of constitutional structure – charitable companies, unincorporated associations, private companies, trusts, charities or anything else – although day-to-day responsibilities may be delegated to a subcommittee or to members of staff.

Line management

If a group has paid workers, the more senior workers will normally be responsible for line management; they manage less experienced staff in their day-to-day work. Management committee members are responsible for managing the organisation, not for managing the staff.

In voluntary organisations – particularly those which may have had no paid staff in the past – these roles are sometimes confused, or blurred. If this happens it can undermine the authority of workers who are employed as line managers. Other staff may also find it confusing if members of the management committee appear to have influence as line managers.

Members of the management committee who have both roles must be aware of the difference between managing **staff** and managing the **organisation**. Only those committee members who have specific line-management roles should be involved in day-to-day management of staff.

There may be a personnel (or staff) subcommittee whose members participate in some personnel procedures, such as recruitment, staffing structures, salary scales, terms and conditions, grievance or disciplinary matters and union negotiation. This does not mean subcommittee members should also be involved in line management.

Who is an employee?

Not everyone who carries out work for an organisation will technically be an employee. It is important to be clear about the status of all workers as it affects their legal rights and the organisation's legal obligations in terms of employment legislation and the Inland Revenue.

Casual workers

Casual (or temporary) workers are usually employees, regardless of the length of their contract. They therefore have the same employment rights as permanent staff. Exceptions are agency workers and secondees, that is staff who work for the group for a limited period, but who are actually employed by another company.

Freelance workers

The organisation may sometimes employ freelance people, who will usually be self-employed, to carry out a specific piece of work. Self-employed people pay their own tax and national insurance (NI), and the employer will not be liable for employers' NI.

Do not assume that everyone doing a short-term piece of work is self-employed. If someone works from the organisation's premises, they may actually be classed as temporary employees, and the group may become liable for their tax and NI. It is essential to be certain about any freelance worker's employment status, because if someone is treated as self-employed who should be an employee, the organisation could be liable for their tax and NI contributions (plus penalties for late payment) even though the payments have not been deducted from the fee.

Who is self-employed?

There is no clear legal definition of self-employment. People who fulfil most of the following conditions are probably self-employed. They:

- work for more than one organisation as a peripatetic worker;
- can decide when, where and what work to do, and for whom;
- provide their own equipment;
- work from home;
- can sub-contract some of the work if necessary (although this is unlikely to happen if they are childcare workers);
- have to correct unsatisfactory work in their own time and at their own expense;
- have to bear the burden of extra cost if they have underestimated the time needed to complete the work;

- do not receive sick pay or holiday pay of any kind;
- can be suspended or dismissed during the period of the contract.

The Inland Revenue decides whether someone is self-employed. Most self-employed people should be able to give the organisation written evidence of their status (provided by an accountant or tax office), but this might not be the case for someone who has recently become self-employed and is waiting for self-employed status.

If in any doubt, contact the local Tax Enquiry Centre (listed in the phone book under 'Inland Revenue'), Tax Office or DSS Contributions Agency Office. For further information, see Leaflet IR56/N139 *Employed or Self-employed*, which is available in tax offices and tax enquiry centres.

Employees' rights and employers' responsibilities

Employees' rights fall under two headings:
- statutory (those laid down by Acts of Parliament);
- contractual (those given as part of the contract of employment).

Some rights apply as soon as someone starts paid work, others depend on the length of continuous service. In virtually all cases there is no difference between part- and full-time workers' statutory rights.[2]

Statutory rights

Most statutory employment provisions are covered by the Employment Rights Act 1996.[3] Other relevant legislation includes:
- Asylum and Immigration Act 1996
- Children Act 1989
- Disability Discrimination Act 1995
- Equal Pay Act 1970
- Health and Safety at Work Act 1974
- Race Relations Act 1976
- Rehabilitation of Offenders Act 1974
- Safety Representatives and Safety Committees Regulations 1977
- Sex Discrimination Act 1975
- Trade Union and Labour Relations (Consolidation) Act 1992
- Transfer of Undertakings (Protection of Employment) Regulations 1981.

2 In December 1997, EU ministers agreed to adopt a directive under the Social Chapter giving part-time workers the same contractual – as well as statutory – rights as full-time workers. Legislation is likely to be in force by the end of 1999.

3 This incorporates the Employment Rights Acts 1980 and 1982, the Trade Union Reform and Employment Rights Act 1993 and the Employment Protection (Part-Time Employees) Regulations 1995.

4 This threshold is currently under review.

Rights for all employees

Listed below are rights that apply to all paid staff. Some of these are dealt with in more detail later in the book, and page references are given where appropriate.

Discrimination and harassment (see pp. 21–22)

All employees have the right:
- to equal pay for work of equal value, regardless of gender;
- not to be discriminated against on grounds of race (except where race is a genuine occupational qualification for the job);
- not to be discriminated against on grounds of sex (except where gender is a genuine occupational qualification for the job) or marital status;
- (in organisations with 20 or more employees[4]) not to be discriminated against on grounds of disability, except where different treatment is 'justified';
- not to disclose spent convictions or be penalised for the failure to disclose a spent conviction (there are exceptions to this, including work with children – see 'Offenders', p. 22);
- not to be victimised or unfairly dismissed because an employee has required the employer to comply with statutory obligations.

Pay and public activities

All employees have the right:
- to an itemised pay statement (see 'Pay slips', p. 25);
- to reasonable time off (which need not be paid) for some public activities (see, p. 18).

Health and safety (see pp. 31–33)

All employees have the right:
- to work in a healthy and safe environment;
- not to be victimised or unfairly dismissed on grounds of activities as a safety representative, for making a complaint about a health and safety matter or for taking steps to protect themselves or leaving a place where they reasonably believe they are in danger;
- to paid time off work to perform the functions as a safety representative (in organisations with five or more staff).

Sickness and injury

All employees have the right:
- in most cases, to statutory sick pay (if earnings exceed the national insurance lower earnings limit), assuming that they have signed a contract to work for three months or longer (see pp. 33–34);
- to compensation for illness or injury caused by work.

Additional rights for pregnant employees (see pp. 34–36)

All employees have the right:

- to paid time off for antenatal care;
- to 14 weeks' maternity leave;
- not to be dismissed for any reason connected with their pregnancy;
- to return to the same job, on the same pay and conditions, after 14 weeks' maternity leave;
- if dismissed while pregnant or on maternity leave, to a written statement of reasons for dismissal without having to request it.

Trades unions (see p. 38)

All employees have the right:

- to join and take part in the activities of a trade union;
- not to join a trade union;
- to hold a secret ballot in a workplace that has a recognised trade union;
- reasonable time off with pay to carry out duties as an official of a recognised trade union;
- to reasonable time off (which need not be paid) for activities of a recognised trade union;
- not to have trade union dues deducted from wages without written consent;
- not to be victimised or unfairly dismissed on grounds of trade union membership or activity.

Working Time Regulations

The Working Time Regulations, which cover working hours and paid holidays, came into force on 1 October 1998. Under the Regulations employees have the following additional rights:

- a limit on average weekly working time to 48 hours (for most employees) over 17-week periods;
- one uninterrupted rest day (ie 24 hours) in each seven days;
- a maximum working day of 13 hours (ie 11 hours' consecutive rest in each 24 hours);
- a rest break of at least 20 minutes where the working day is longer than six hours;
- 15 days' paid holiday a year (20 days from November 1999);
- a free health assessment for night workers.

Asylum and Immigration Act 1996

Under Section 8 of the Asylum and Immigration Act it is a criminal offence to employ anyone over 16 who is not entitled to work in the United Kingdom. The maximum fine is £5,000.

The Home Office has issued detailed guidelines explaining what employers must do to comply with the Act.[8]

Employers can protect themselves by proving that, before employment began, the employee produced a document which:

- appeared to relate to the employee;
- appeared to be one of the documents described in the Regulations (see box on p. 8);[9]
- the organisation either kept the document or made a copy, in accordance with the Regulations. However, the organisation will still be liable to

Rights for employees dependent on length of continuous service

'Continuous service' means the length of time that someone has worked for the same employer, even in different jobs. In some cases work with a previous employer will count towards continuity.

Right	*Qualifying period*
Written statement of the main particulars of employment, within two months of starting work	1 month
Minimum notice period	1 month
Pay while on medical suspension[5]	1 month
Written statement of reasons for dismissal, within 14 days of the request[6]	2 years
Not to be unfairly dismissed[7]	2 years
Statutory maternity pay (if earnings are at least equal to the NI lower earnings limit)	26 weeks by the fifteenth week before the expected week of childbirth
Extended maternity leave (some of it paid) and the right to return to work	2 years by the beginning of the eleventh week before the expected week of childbirth
Redundancy pay and reasonable time off to look for work or to arrange training if under notice of redundancy	2 years

5 When off work on medical grounds as required by a statute or code of practice issued under the Health and Safety at Work Act 1974.

6 Ditto.

7 See also 'Additional rights for pregnant employees', above.

8 *Prevention of Illegal Working: guidance for employers*, (Home Office Directorate, 1996).

9 Immigration (Restrictions on Employment) Order 1996.

conviction even though a relevant document was seen and copied if it can be proved that when employment began the organisation knew that to employ the person would be an offence under Section 8.

Documents described in the Regulations
Acceptable documents include: a document issued by a previous employer, the Inland Revenue, Benefits Agency or Employment Service that includes the person's name and national insurance number; a birth certificate or certificate of naturalisation from the UK or another European Union/European Economic Area (EEA) country; a letter from the Home Office showing the person has a right to take up employment in the UK; a passport or travel document endorsed to show the person has the right to be in the UK without conditions; a work permit or other approval to take employment issued by the Department for Education and Employment; a residence permit issued to a national or member state of the EEA.

A full list of acceptable documentation is available from the Commission for Racial Equality or the Home Office. All documents are equally valid and it is only necessary for the employee to produce one. It could constitute unlawful racial discrimination if a candidate was rejected because the organisation found the documentary evidence complicated to read or understand. The Home Office helpline on 0181 649 7878 can help anyone who has a problem understanding a document.

Ensuring equal treatment

To ensure non-discriminatory practice and to safeguard the organisation, all potential employees should be treated equally. Give all applicants clear information about the stage in the recruitment process at which they will be asked for documentary evidence of their status. As Section 8 applies to new employees, only ask for a document from the successful candidate. Also make it clear:

- *why* the evidence is being requested;
- that it applies to *all* potential employees, regardless of race, colour or ethnic background;
- that information in any document seen will be treated in confidence;
- that it is only necessary to produce *one* of the documents.

The Commission for Racial Equality's guide for employers includes good practice recommendations.[10]

10 *Racial Equality and the Asylum and Immigration Act 1996: a guide for employers on compliance with the Race Relations Act 1976* (CRE, 1997).

11 David R. Smith, *Safe From Harm: a code of practice for safeguarding the welfare of children in voluntary organisations in England and Wales* (Home Office, 1993).

Categories of workers covered

Section 8 does not apply to someone who is self-employed or who is actually employed by another organisation, for example a temporary worker employed through an agency.

In most cases voluntary work does not involve a contract of service and so volunteers would not be subject to these controls. However, if in any doubt, take legal advice.

✓ Recruitment

Staff costs form a major part of an organisation's expenditure, and employing competent people is the most important way in which an organisation fulfils its objectives. It is essential to recruit staff who will help run the organisation efficiently and provide effective services. Finding the right people can be an expensive task and it is worth investing time in developing clear recruitment and selection procedures.

Safeguarding children

The Home Office's code of practice, *Safe From Harm*,[11] sets out guidelines for good management policies and practice to help prevent any kind of abuse of children while they are in the care of the organisation.

The code does not impose new statutory duties. It supports and reinforces existing legislation (for example the Children Act 1989) and is designed to help organisations fulfil their duty of care towards the children with whom they work. It includes a number of guidelines relating to recruitment and employment of staff and volunteers. These include the following.

Guideline 7

This states: 'Treat all would-be paid staff and volunteers as job applicants for any position involving contact with children.' This includes asking for:

- details of previous voluntary or paid experience of working with children, if any;
- permission to contact, in person and in writing, at least one person who has experience of the applicant's work or contact with children;
- details of any convictions for criminal offences against children, including any 'spent' convictions under the Rehabilitation of Offenders Act 1974 (see 'Offenders', p. 22);
- permission to check for any police criminal record, in appropriate cases (see 'Police checks', p. 15).

Guideline 8
For posts involving contact with children, this guideline recommends obtaining at least one reference from a person who has experience of the applicant's paid work or of their work as a volunteer with children.

Guideline 9
This guideline states that groups should 'explore all applicants' experiences of working or contact with children in an interview before appointment'. It recommends that applicants should be asked about their working, voluntary and personal relationships with children.

Guideline 10
Groups should take time to 'find out whether an applicant has any conviction for criminal offences against children'.

As well as informing applicants about exemption from the provisions of the Rehabilitation of Offenders Act (see 'Offenders', p. 22), *Safe From Harm* recommends asking applicants to include paid and unpaid posts in order to explain apparent lapses in their employment records.

Guideline 11
This recommends making all appointments conditional on the successful completion of a probationary period (see p. 26). If this is the case, it is essential to make it clear in the letter of appointment.

Recruitment policies and procedures

A well-thought-out recruitment policy will help groups to:
- clarify the nature and requirements of the job prior to recruitment;
- reduce the number of applications from people who would be unable to do the job;
- choose the best person for the job;
- reduce staff turnover.

Procedures should be designed to ensure equality of opportunity, in terms of legal obligations and good practice (see 'Equality of opportunity and discrimination in employment', pp. 20–22) and should cover the following:
- job review
- job descriptions
- person specifications
- application forms
- advertising
- shortlisting
- interviewing.

Reviewing jobs

Every time there is a job vacancy the organisation should take the opportunity to review the post. It is useful to ask the following questions.
- Does the existing job description still accurately describe the work, including the division of administrative duties and direct work with children?
- Does the post relate to the group's current aims and objectives?
- Is the post still needed?
- What type of person would be suitable for the post?

The last question can be answered when redrafting the job description and person specification.

Job descriptions

Every employee should have a job description that outlines the main areas of work, tasks and lines of responsibility in the job. It should be clear enough for the postholder to be sure about the work involved, but not so detailed that there is no room for flexibility or for the job to evolve. It should describe the job in everyday language, and include the following:
- job title;
- grade (if pay scales are used);
- the job title of the worker's line manager, or the person to whom they are responsible (this may be another employee, line manager, supervisor or member of the management committee);
- if the worker is a manager, the job titles of people for whom they will be responsible;
- the main purpose of the job;
- the key areas of the job, including age range of children;
- the main tasks and responsibilities within each key area;
- the main terms and conditions (hours, pay, holiday entitlement and a reference to other terms and conditions);
- any special issues, for example whether or not staff are allowed to bring their own children to the group.

There is no need to list every task the postholder is required to do, and it is usual to include a phrase such as: 'to carry out any other appropriate duties as may be reasonably required, from time to time'.

The job description forms part of the contract of employment (see 'Contracts', pp. 16–20) and cannot be changed without agreement from the postholder.

Person specifications

A person specification outlines the knowledge, skills, experience, attitudes and abilities needed to fulfil the tasks in a job description.

When drawing up a person specification, be sure not to discriminate by asking for unnecessary attributes. For example, distinguish between whether someone needs **experience** of a task, or simply **an ability** to carry it out. Think carefully before asking for formal or unnecessarily high educational qualifications. For example, ask for 'a high standard of literacy' rather than 'a GCSE in English', or 'degree-level skills' rather than 'a degree'.

Always list the *minimum* specifications needed to carry out the job and make it clear that experience need not have been gained solely in paid employment – experience gained in a voluntary capacity or as a hobby or leisure activity may be just as valuable. It is useful to include the essential personal quality needed to do the job well, for instance: 'an ability to relate well to children and to adults at different levels, inside and outside the organisation, including parents and carers'.

Only include elements that are measurable, and as the list is drawn up think about how each quality could be tested.

Most person specifications include desirable as well as essential qualities. This helps in shortlisting if a large number of candidates fulfil all the essential criteria.

Application forms

Standard application forms help the selection panel to compare applications without bias. Groups should design their own forms and send them to applicants rather than ask for CVs.

The information requested should enable the panel to determine which of the candidates match the person specification. Use elements of the person specification as headings on the application form and make it clear that, under each heading, applicants should only supply information that relates to those specific skills.

The form should be clearly laid out to allow candidates enough space to answer questions fully. Some applicants may want to use a word processor to complete an application form, which might involve reproducing the form. Make it clear whether this is acceptable and, if it is, whether candidates must follow the headings on the form.

If a post is suitable for someone who is blind or who has a visual impairment, make the form available in large type and either in Braille or on tape.

Provide applicants with a whole page on which to write about their previous experience and how it relates to the post they are applying for, and invite them to add extra pages if necessary. This enables applicants to include everything they feel is relevant. Ample space should also be provided for applicants to list educational qualifications.

Make sure that completing the form does not involve a higher standard of literacy than is necessary for the post. For example, if the post advertised is suitable for someone who is learning disabled, the group may need to consider alternative ways that they could present information.

A sample application form is given on pages 44–48.

Staff who look after young children

Under the Children Act 1989, the local authority has to satisfy itself that anyone proposing to look after children aged under eight is a 'fit person' and that other people living or working on the premises are 'fit to be in the proximity of children aged under eight'.[12]

It is therefore important to consider the following points when recruiting new staff who will be looking after young children:

- previous experience of looking after or working with young children, people with disabilities or older people;
- qualifications and/or training in a relevant field such as childcare, early years education, health visiting, nursing or other caring activities;
- ability to provide warm and consistent care;
- knowledge of, and attitude to, multicultural issues and people of different racial origins;
- knowledge of how to treat all children as individuals and with equal concern, and commitment to doing so;
- physical health;
- known involvement in criminal cases involving abuse to children.

Points to consider relating to people working or living on the premises are:

- previous records;
- known involvement in criminal cases involving abuse to children.

For further information see *Care For Under Eights*.[13]

Monitoring applications

To check the effectiveness of equal opportunities practice in relation to recruitment, an organisation should analyse the people who have

12 *The Children Act 1989 Guidance and Regulations Volume 2 (7.32) Family Support, Day Care and Educational Provision for Young Children* (Stationery Office, 1991).

13 Celia Smith (Judith Stone, ed.) *Care For Under Eights: a guide to daycare services under the Children Act*, Starting Points 12 (National Early Years Network, 1991).

applied and how they found out about the vacancy. It is usual to include a monitoring sheet with application forms asking for details such as the applicants' racial origin, gender and disability, and where they saw the post advertised. Some organisations also ask about age and sexual orientation.

Make it clear that applicants do not have to answer the questions, that they are for monitoring purposes only and that the success of their application will not be affected if they do not wish to fill in the form. Monitoring sheets should be separated from application forms before shortlisting so that all applications are given impartial consideration and the selection panel cannot be biased by a person's race, sex or disability.

A sample monitoring form is given on page 49.

After shortlisting, the panel should use the monitoring information to look at the gender, ethnicity and disability breakdown of all applicants and those who were shortlisted. If there is a large discrepancy between the two sets of figures (for example, if 50% of applicants were from minority ethnic communities, but only 10% were shortlisted), the panel may wish to consider whether to take another look at the applications marked 'possibly interview'.

If particular sections of the community were under-represented in the applications, the panel may wish to review the person specification and where the post was advertised.

Advertising a vacancy

To ensure that the vacancy reaches as many potential applicants as possible, it is important to consider:

- the wording of the advertisement;
- where the advertisement should appear;
- how people will obtain application forms and further information.

Wording the advertisement

Phrase the advertisement so it is clear what the job entails and the type of person the organisation is looking for. Use the checklist in the box below to make sure all the important

Information to put in an advert

1. Organisation's name (and logo, if applicable).
2. Job title.
3. If the job is part time, the number of hours' work each week.
4. The main tasks involved in the post, including contact time with children, record-keeping and administration.
5. Brief details of skills, knowledge, experience and qualifications, and whether they are essential or desirable.
6. Salary and pay scale, if used (include the term 'pro rata' if the job is part time).
7. Details of whether the post is funded for a limited period, and by whom (eg lottery grant).
8. Whether the post is open for job sharing.
9. Contact name and telephone number for informal discussion, if appropriate.
10. Contact name/number for further details (if possible, include a textphone number, fax number or email address as well as a telephone number, to enable hearing-impaired people to ask for details).
11. Closing date for applications.
12. An equal opportunities statement (for example 'The Playgroup aims to be an equal opportunities employer and welcomes applications from all sections of the community', or 'The Playgroup is committed to equal opportunities').
13. Other information, for example whether applications are particularly welcome from certain sections of the community and if so, under which section of which Act the post is being advertised (see 'Equality of opportunity and discrimination in employment', pp. 20–22).
14. Whether the building is accessible for disabled people.
15. Charity number, if applicable.

information has been included. In addition to this, the group may also need to include a funding acknowledgement (if in doubt check with the funders).

It is often useful to include a reference number on the advertisement and to ask applicants to quote this when applying. A different reference number should be used for each place that the advertisement appears, which will help in monitoring the effectiveness of different advertising methods.

To cut down on costs and administration, the advert could ask enquirers to write in, enclosing a stamped addressed envelope (include the size of the envelope and the amount of postage).

Where should the advertisement appear?

Advertising in national newspapers is very expensive, but there are many other ways of reaching a wide audience, including local newspapers. Other possibilities are to:

- consider specialist journals, such as *Nursery World*;
- give details to the local JobCentre;
- display the advertisement in local libraries, shops and public noticeboards – for example some supermarkets have community noticeboards;
- send copies to local organisations, including community centres, places of worship and radio stations, and to local publications such as a talking newspaper or the local disability organisation's newsletter;
- contact the local council for voluntary service – many produce a newsletter and will include an advertisement for little or no charge;
- go through local specialist recruitment agencies;
- contact schools and health centres.

Providing application forms and further information

Send enquirers a copy of the job description, person specification, the group's equal opportunities policy and the main terms and conditions of employment including:

- salary or salary scale (stating the point on the scale at which the employee is likely to start);
- hours of work, including any flexible working arrangements;
- place of work;
- age range of children the postholder will be working with;
- overtime: say whether it is paid, or if time off in lieu is given;
- annual leave in addition to bank holidays;
- pension scheme (if there is none, state this);
- additional sickness benefits, if any;
- recognised trade union(s), if any;
- whether the post is exempt from the Rehabilitation of Offenders Act (see 'Offenders', p. 22);
- any other points, for example car and/or travel allowance;
- who will be informed about the outcome of shortlisting (it is possible to state that only shortlisted people will be contacted by the group).

Include information about the organisation in the letter, for example size of group, age of children, a copy of the latest annual report, and details of funding sources.

Give the closing date and say whether applications will be acknowledged. Whenever possible, let candidates know the shortlisting and interview dates. Some organisations also state the preferred starting date.

Selection panels

Wherever possible, more than one person should be involved in recruitment, and it is best to aim for between three and five people, depending on the post. For senior posts the panel will usually include a committee member, and in most groups the chair of the management committee is involved in the recruitment of a nursery manager.

It may be desirable to include someone from outside the organisation if a post involves particular skills or knowledge which are not covered by any staff or committee member. These might include financial expertise or specialist knowledge of special needs, education, care and multicultural issues related to the welfare of the children to be cared for.

All panel members should be aware of equal opportunities recruitment methods and, ideally, all should have had equal opportunities recruitment training. As far as is reasonable, try to have a gender, age, disability and ethnicity mix, as this ensures that the panel has a range of experience and will demonstrate to candidates that the organisation puts its equal opportunities policy into practice.

All panel members should be involved in both the shortlisting and interviewing, so remember to consult all members before setting shortlisting and interviewing dates.

Shortlisting

Before shortlisting, the person who deals with the administration of applications needs to assign a number to each application and monitoring sheet, then separate the monitoring sheets. Ideally this should be done by someone who is not on the selection panel.

Panel members should shortlist separately before discussing the applications. The simplest method is for the panel to meet, read each application and record decisions on a standard numbered checklist.

Applications should be judged on how well they meet the criteria in the person specification. One way of doing this is to use a scoring system for assessing candidates. For instance:

- candidates who fully meet a criterion get a score of 2;
- candidates who partly meet the criterion get a score of 1;
- candidates who do not meet the criterion get a score of 0.

All the points are added up at the end, and the highest totals will have been achieved by the people who meet the most criteria. This will help the panel decide who to shortlist.

It is useful for each panel member to mark the applicants as 'definitely interview', 'possibly interview' and 'definitely no interview'.

Aim to interview a maximum of six candidates. Shortlist any applicants whom all the panel feel meet all the essential criteria, and if this is more than six the list could be cut down by considering desirable criteria. If more than six people appear to meet the criteria, it is best if they can all be interviewed. Panel members should be aware that this is time consuming, as it could mean conducting a two-stage interview process.

The panel should then discuss the candidates marked as 'possibly interview' and either add them to the shortlist, if all panel members are happy with this, or agree why they are not suitable. The panel will also need to discuss the reasons for marking candidates as being unsuitable for interview.

Sample shortlisting forms are given on pages 50–51.

Keeping records

Always keep a list of candidates who were not selected and note the reasons why they were unsuccessful. As well as being good equal opportunities practice, records are necessary if a candidate challenges the panel's decision. By law,[14] an applicant who feels discriminated against on grounds of sex, race or disability has up to three months to complain to an industrial tribunal. Records should be kept for a minimum of three months.

Informing shortlisted candidates

Contact shortlisted candidates straight away, to arrange interview times. If possible, have two or three names in reserve to interview in case any of the shortlisted candidates withdraw. Letters to shortlisted candidates should include:

- for childcare jobs, an invitation to visit the nursery/setting prior to interview;
- date, time and venue of the interview;
- how long it will last;
- travel information, and whether travel and other expenses will be paid;
- details of any tasks to perform at the interview;
- request for candidates to bring to the interview original certificates of qualifications gained that are relevant to childcare;
- whether the interview is one of two stages.

Ask candidates if they have any special requirements for the interview, for example an interpreter or signer, and ask them to confirm interview times as soon as possible. Advise candidates of the date by which the panel intends to make its decision after the interview, as knowing the deadline can save a lot of anxious waiting for candidates. Also state whether candidates will be informed of the decision by phone or by post.

References

Ask for two references, one of which should be from the current or most recent employer – where possible, candidates should be asked if this person can be contacted before the interview or if the panel must wait until afterwards. The other reference should be either from another employer or from someone who might say more about the candidate's character than their working practices, perhaps someone the candidate has worked with as a volunteer. Make it clear that references from friends and relatives are not acceptable.

Always ask for written references. Requests for references should include a copy of the job description and person specification plus information about the organisation, so the referee is able to make an informed judgement about a candidate's suitability for the post. Always include a stamped addressed envelope and allow a reasonable period for responding.

Even if references are received before the interviews, they should not be read until a decision has been made to offer someone the job. References should be used to confirm, rather than influence, the interview panel's decision.

Interviews

Planning

It is essential to plan interviews carefully. The aim of an interview is to decide who is the best person for the job by assessing how well candidates fulfil the person specification. The

14 Sex Discrimination Act 1975, Race Relations Act 1976 and Disability Discrimination Act 1995.

panel therefore needs to decide how each aspect of the person specification will be tested. Methods include:

1 questions;
2 tasks on the day, for example planning a specific activity for the age range of children to be worked with, taking into account:
   - special needs
   - different cultures
   - ongoing work to extend and consolidate knowledge and understanding of children
   - fun
   - record-keeping;
3 prepared tasks, for example a portfolio of work already done;
4 presentations (for which an OHP or flipchart may have to be provided).

Decide who will be asking which questions, and what the panel will be looking for in the answers. It is useful to have questions written out and numbered, to know who will ask which questions and what a candidate's response to the question should tell the panel.

Conducting the interview

Arrange for someone to greet interviewees as they arrive, show them where they can wait and then take them in to the panel when they are ready.

One member of the panel should act as chair, welcoming the candidates and introducing the panel by name, asking panel members to explain who they are. If possible, spend a couple of minutes in ordinary conversation to reduce tension.

The chair should tell each candidate how long the interview will last, say that the panel will be making notes, make it clear that every candidate will be asked the same questions, and say that there will be an opportunity for the candidate to ask questions at the end of the interview.

Each panel member should take notes for each candidate, and time should be allowed between interviews for each member to complete their notes and assess how well the candidate has met the criteria. *Candidates should not be compared at this stage.*

At the end of the interviews the panel could go through a process similar to that used at shortlisting. All interviewees should be discussed, after which the panel decides on the person they most want for the post. If possible have one, or maybe two people in reserve, in case the preferred candidate turns down the job offer.

If no candidate stands out clearly, discuss those whom the majority of the panel favoured, or who scored highest.

If after interviewing there are no suitable candidates, consider re-advertising, but before doing so, take another look at the job description, person specification and advertisement.

If, on the other hand, the panel has been unable to come to a decision because more than one person seems suitable, ask those candidates back for a second interview. Be clear what the panel wants to find out in these interviews.

If references have been received for the successful candidate they should be read now, otherwise any offer of a post must be subject to references. There may be other conditions, such as statutory checks stipulated by social services, which might include medical checks and police checks (see p. 15), which should be carried out at this stage.

Contact the successful candidate as soon as possible, asking for permission to contact referees, if necessary. Follow any phone call with a letter, making it clear whether the offer is subject to any conditions. Ask the candidate to confirm acceptance in writing.

Write to unsuccessful candidates immediately and be prepared to discuss the interview if they want further information on why they were unsuccessful.

Keeping records

As with shortlisting, keep a written record of all decisions or comments about candidates. Unsuccessful candidates who feel they have been discriminated against on grounds of race, sex or disability have the right to appeal to an industrial tribunal, within three months. The tribunal can grant an extension so it is advisable, as well as good practice, to keep records for 12 months.

Sample interview scoring forms are given on pages 52–54.

Letter of appointment

Once satisfactory references have been received and details discussed, the successful candidate should be sent a letter covering:

- proposed start date;
- agreed starting salary;
- job title;
- any conditions of the employment offer (such as statutory checks and probationary period);
- a request for a reply in writing;
- a request to supply P45, National Insurance number and bank account details on their first day;
- guidance on what to wear, or whether a uniform is provided.

If there are no conditions attached to the offer, this letter will form part of the contract of employment. A sample letter of appointment appears on page 55.

Internal applicants

There are a number of circumstances in which someone already working for the organisation may apply for a post. Someone in a permanent, paid post may wish to achieve promotion or to make a complete change of direction. The post may also be of interest to short-term employees or volunteers.

If someone on a short-term contract is to be employed for longer, remember that they may then qualify for employment rights acquired through length of service (see table, p. 7). This can have significant budgetary implications.

The group may wish to appoint an internal candidate without advertising the job to anyone outside the organisation. However, if the post is advertised, the organisation should carry out the usual recruitment process and treat all candidates the same – advertising should not just be 'for show'. The group may have a policy in which they always shortlist an internal candidate, but that person must fill in the same application form as everyone else and be taken through the same procedures.

Low-paid workers

Employees who receive social security benefits may have a limit on the number of hours they can work per week, or the amount they can earn, before losing some of their benefit. A worker may lose benefits if their hours are increased, and this might leave them with less money in their pocket at the end of the month.

Employers should be aware of these limitations and, if loss of income is a possibility, the employee should be referred to the local Citizens' Advice Bureau or Department of Social Security for advice about the 'better off at work calculation'.

Recruiting freelance workers

It is important to follow equal opportunities principles when recruiting freelance workers. For small pieces of work it may not be feasible to use the full recruitment process, but if informal methods are used they should be monitored to safeguard against possible discrimination. For instance, freelances are often recruited through personal networks, but it is important not simply to use the first person that comes to mind and to consider whether freelances could be found in other ways. Whatever the method of recruiting, always ask for examples of previous work and take up references.

For further information on freelance workers' contracts, see page 19.

Volunteers

Safe From Harm recommendations

All the guidelines mentioned in this section – Guidelines 7, 8, 9, 10 and 11 – also relate to volunteers. Guideline 10 (relating to criminal offences against children) recommends asking volunteers to give reasons if they appear to have moved from one voluntary group to another on a number of occasions.

Police checks

Under current legislation employers are permitted, but not obliged, to undertake police checks to discover whether current or potential employees who have 'substantial opportunity for access' to people under 18 have previous convictions. Spent convictions can only be taken into account for posts exempt under the Rehabilitation of Offenders Act 1974. It may be possible to carry out such checks through the local social services department, but arrangements vary from area to area.

However, legislation is to be introduced that will make police checks obligatory for some kinds of work and give employers wider access to police records. The Home Office is consulting with voluntary agencies about the process.

Police Act 1997

Once in force, Section 5 of the Police Act 1997 will establish a formal system for carrying out police checks on potential employees. The proposed arrangements are outlined below, but government ministers are currently looking at the implementation of the provisions. Three levels of information will be available.

1. Any employer will be able to apply, with the individual's consent, for a **Criminal Conviction Certificate** on payment of a fee. This provides confirmation that the person has no convictions or gives limited details of any convictions. It will not include any convictions that are spent under the Rehabilitation of Offenders Act 1974.
2. Organisations where applicants cannot withhold information about spent convictions, including employment with children, will be able to apply for a **Criminal Record Certificate** on payment of a standard fee. The application must be countersigned by someone who is registered as able to authorise an application (see below). The details provided will include all criminal convictions, including spent ones, and cautions.
3. Organisations that are training, regularly caring for, supervising or being in sole charge of people under 18, or certain specified categories of

people aged 18 or over will be able to apply for an **Enhanced Criminal Record Certificate**. Again, the application will need to be signed by a person who is registered to authorise such an application. This will provide even fuller information about the person's criminal record history.

In March 1998, the level of additional information available in each of the above certificates was still to be determined.

Applications to become a registered person entitled to authorise requests for certificates will have to be made to the Home Secretary. Organisations employing people to care for children will be able to register.

A Code of Practice will be issued when the Act is brought into force and it will be a criminal offence to disclose information obtained under these procedures except for specified purposes.

✓ Contracts

15 Usually under the Employment Rights Act 1996.

An employment contract can be verbal or written. It exists as soon as someone accepts the unconditional offer of a paid job (most childcare job offers are initially conditional, for example they might be subject to satisfactory references and statutory checks). Any terms of employment mentioned in a job advertisement, job description and person specification, or during an interview, form part of the contract. Both parties are bound by the terms agreed.

A contract is made up of **express** and **implied** terms. Express terms are those stated in the letter of appointment, job description, terms and conditions of service and trade union agreements. Implied terms are those which are not usually stated. These include the employer's duty to pay wages, ensure health and safety within the workplace and treat the employee with respect. In turn, the employee has a duty to be ready and willing to work, obey reasonable instructions and give honest and faithful service.

Although a contract does not have to be in writing, the main terms of employment do (see 'Written statement of employment particulars', pp. 19–20). Putting all terms in writing is good employment practice, and can minimise later disagreements and confusion.

Custom and practice

If something becomes 'custom and practice', that is to say if it becomes an accepted condition of work, this could become a contractual obligation. For example, if an employee has been allowed to take four weeks' holiday every August for a number of years, changing this without agreement of both worker and employer may be viewed as unfair.

Variation of contract

There are only two ways an employment contract's terms and conditions can be changed:

- by mutual consent;
- if an 'incorporated term' changes, for example if the salary rises, a new law is passed or a term of employment is conditional on, say, grant aid.

Terms and conditions of employment

Outlined below are some of the terms and conditions of employment that should be covered in contracts of employment. They include brief information about statutory minimum requirements[15] and suggestions for good practice. Some minimum terms may be dictated by funders.

All employers are bound by statutory employment rights. These are *minimum* terms. An employer is free to agree better terms with an employee in a contract or as part of a collective agreement between management and the trade union.

A sample contract, which incorporates suggestions for good practice, is given on pages 56–63.

The terms and conditions should also make it clear that it is a condition of employment for employees to follow all the organisation's policies.

Pay dates

Employees must know how they will be paid (for example, by cheque, bank draft, BACS – banker's automated clearing system – or cash) and when (for example 'every Friday', 'the 19th of each month', 'the fourth Friday of each month' or 'the last working day of each month').

Pay advances

Some early years groups allow employees to have advance payment from their salary in special circumstances. If this is the case it is essential to have a procedure covering:

- a qualifying period, if any;
- restrictions on sizes of advances (whether all, or a percentage of salary can be advanced);
- number of advances permitted in each financial year;
- how long an employee will be given to repay the advance;
- how an employee should request an advance.

Leave

Paid leave

From 1 October 1998, employees with at least three months ervice are entitled to a minimum of 15 days paid holiday, which will increase to 20 days from 23 November 1999 (pro rata for part-time workers.

Good practice would be to give 20 or 25 days annual paid leave – pro rata for part-time staff (see below) in addition to bank holidays. Be clear about the holiday year – most early years groups use January to December or April to March – and how much leave, if any, employees can carry over from one holiday year to the next.

Some groups have a limit on the amount of annual leave (excluding bank holidays) that can be taken at any one time (for example 15 days). Some groups state that leave over a certain length needs the approval of the nursery manager or chair.

In certain types of early years groups it may be necessary to place agreed restrictions on the times when leave may be taken during the year. For example, in a group providing term-time provision, leave might be restricted to school holidays.

Pro rata leave calculations

Annual leave

Annual leave for part-time workers is based on the leave given to full-time workers. The sum is easiest if full-time workers have an annual leave entitlement that is divisible by the number of working days for full-time workers. For example:

- Full-time workers who work a 5-day week have 25 days annual leave – 5 working weeks leave, 1 for each working day.
  - People who work a 3-day week have 15 days annual leave – 3 working weeks leave, 1 for each working day.
  - People who work a 2-day week have 10 days annual leave – 2 working weeks leave, 1 for each working day.
- Full-time workers who work a 5-day week have 20 days annual leave – 4 days leave for each working day.
  - People who work a 3-day week have 12 days annual leave – 4 days leave for each working day.
  - People who work a 2-day week have 8 days annual leave – 4 days leave for each working day.

The sum is more difficult if the number of days annual leave is not divisible by the number of days worked by full-time workers. In that case, the calculation would need to be based on the number of hours worked by full-time workers. Here is an example of the calculation:

- Full-time workers who work a 37-hour week have 22 days annual leave.
- Divide the full-time workers' 22-days leave by the 37 hours they work a week to find out how many days leave are earned for each hour worked per week.

  22 ÷ 37 = 0.59 days leave per hour worked every week
- Multiply the number of hours worked by each part-time worker by 0.59 to calculate the number of hours annual leave they should have, eg 21 hours worked a week gives around 12½; 14 hours worked a week gives around 8¼ days.

Bank holidays

There are eight bank holidays in a full year. They are:

- Good Friday
- Easter Day
- May Day (first Monday in May)
- Spring bank holiday (last Monday in May)
- August bank holiday (last Monday in August)
- Christmas Day
- Boxing Day
- New Years Day.

It can be difficult to work out a fair system for calculating part-time workers' entitlement to bank holidays. The 'Monday problem' means that part-time workers who normally work on a Monday could end up having four more bank holidays than someone who works on a Wednesday. To avoid this, and to give all part-time workers the right proportion of leave for bank holidays:

- give part-time workers a contract that specifies the number of hours or working days but does not specify the particular days of the week to be worked – that can be arranged outside of the contract;
- calculate the number of bank holidays pro rata according to the number of days/hours worked.

Bank holiday leave needs to be based on the same sum as the hourly calculation above. For example:

- Full-time workers who work a 7-hour day for 5 days (35 hours a week) have 8 bank holidays (56 hours).
- Divide the full-time workers' 56 hours bank holidays by the 35 hours they work a day to find out how many hours bank holiday are earned for each hour worked per week.

  56 ÷ 35 = 1.6 hours bank holiday per hour worked every week.
- Multiply the number of hours worked by each part-time worker by 1.6 to calculate the number of hours bank holiday leave they should have: eg 21 hours worked a week gives 33.6 hours or around 6¾ days; 14 hours worked a week gives 22.4 hours, or just over 3 days.

The organisation may want to include a clause in the contract of employment that specifies when these bank holiday days can be taken by workers who do not normally work on bank holiday days of the week.

Extended unpaid leave

Some early years groups allow staff to take additional unpaid leave in certain circumstances, for example to visit relatives abroad or to study for an exam. It is usual to have a qualifying period of employment, say six months or a year, and for additional leave to require approval by the nursery manager or chair. Any extended period of leave should be agreed as far in advance as possible, so that cover can be arranged.

Compassionate leave

It is usual to allow staff to have time off in situations such as bereavement or illness of a close or dependent relative. This could be paid or unpaid, and each case should be considered on its merits. Compassionate leave is usually given at the discretion of the manager or chair.

Some organisations have a 'scale' of compassionate leave, perhaps depending on the closeness of the relative.

Other leave

Other circumstances for which leave – either paid or unpaid – could be given include moving house and attending interviews.

Time off for public duties

Employees who hold certain public positions are entitled to 'reasonable' time off – which need not be paid – to perform the duties involved.[16] These include:

- JPs;
- local authority councillors;
- members of a police authority;
- members of any statutory tribunal;
- members of an NHS trust;
- members of a health authority;
- members of boards of prison visitors;
- school governors.

In deciding how much time off is 'reasonable' the following should be taken into account.

- How much time off is generally required to perform the duty and how much is needed on the particular occasion.
- How much time the employee has already had off for the public duty or trade union duties and/or activities (see 'Trades unions', p. 38).
- The effect the employee's absence would have on the organisation's work.

If leave is paid, the organisation may wish to limit the number of paid days given a year. For further information see DTI leaflet PL 702.[17]

16 Employment Rights Act 1996.

17 DTI, PL 702: *Time off for Public Duties*.

18 Transfer of Undertakings (Protection of Employment) Regulations 1981, as amended by the Trade Union and Employment Rights Act and by the 1995 Regulations.

✓ Notice periods

Under legislation, both employers and employees are normally entitled to a minimum period of notice for termination of employment.

After one month's employment an employee must give the employer at least one week's notice (which does not change with longer service). However, many employers require employees to give more notice than the minimum: usually one month for most employees, and up to three months for senior posts. A table of statutory minimum notice periods is given below.

Most employers give longer notice periods than the statutory minimum; good practice would be to give employees a minimum of one month's notice (after a qualifying period).

The notice period – for both employer and employee – is usually less during a probationary period (see p. 26).

Employees are entitled to the following minimum notice periods from an employer

Length of service	*Minimum notice period the employee is entitled to receive from the employer*
1 month to 2 years	1 week
More than 2 years, less than 3	2 weeks
More than 3 years, less than 4	3 weeks
More than 4 years, less than 5	4 weeks
More than 5 years, less than 6	5 weeks
More than 6 years, less than 7	6 weeks
More than 7 years, less than 8	7 weeks
More than 8 years, less than 9	8 weeks
More than 9 years, less than 10	9 weeks
More than 10 years, less than 11	10 weeks
More than 11 years, less than 12	11 weeks
12 years or more	12 weeks

✓ Taking on another organisation's staff

If a group is considering taking over an existing project or service, it may become the new employer of the project's employees.[18] Under the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) these employees will automatically retain their terms and conditions of employment. This applies to someone on a fixed-term contract and non-agency temporary staff as well as those on ordinary contracts.

Before making a commitment to take over another organisation's project, it is important to be fully aware of the terms and conditions that are in force and to consider the financial

implications. It is possible to end up with the situation where some staff in the organisation are employed on more favourable terms than others, which may not be desirable.

The law relating to TUPE is very complex, so an organisation considering taking over a project or service should get legal advice.

Information for staff

It is good practice for each staff member to be given a ring-binder containing information about the organisation they are working for. It should include the employment particulars listed under 'Written statement of employment particulars', below, and the following:

- general information about the organisation, for example a brief history and funding sources;
- staff/committee structure diagram;
- induction programme;
- disciplinary, grievance and complaints procedures;
- equal opportunities policy;
- child protection policy;
- health and safety policy;
- complaints procedure;
- appraisal system;
- training policy;
- all other policies and procedures;
- details of subsistence and travel allowances.

A copy should be given to all new employees and it is also useful to give copies to committee members and volunteers. All staff should receive updated and new documents.

Staff members should be given time to read, understand and discuss the information with their line manager, and each section should be countersigned by employee and manager. This avoids misunderstandings in the future.

Short-term funding

Many early years groups receive short-term funding. Staff should still be employed on permanent employment contracts, and provision should be made for redundancy payment (see pp. 39–40). It should be made clear to staff how long funding is available for the post.

Freelance workers

Anyone employed on a freelance basis should be given a contract. This will be a contract for *services*, meaning that it is not a contract of employment. It need not be a complicated document, but should cover the following.

- Fee (stating whether or not it includes VAT – this will depend on whether the worker is VAT registered and on the nature of the work).
- Expenses (for example travel and telephone).
- Payment arrangements (whether the payment will be in stages, or on completion of the work), including what happens if work is unsatisfactory.
- Start, completion and interim dates (for example for first drafts).
- The work to be done: make sure this is absolutely clear, and set it out in a separate document if necessary.
- Copyright. If publishing text or illustrations that have been written or created by a freelance worker (or anyone else) it is essential that the person gives their permission to publish. This might include agreeing a fee.
- Self-employment status. Make clear that the contract is not a contract of employment and that, if self-employed, the worker is liable for their own tax and national insurance.
- Insurance. Depending on the type of work to be done, it may be necessary for the freelance worker to have public liability and/or professional indemnity insurance (see pp. 29–30).
- Equal opportunities. The contract should state that the freelance worker must adhere to the organisation's equal opportunities policy.
- Grievance procedure. Give details of the procedure to be followed if the freelance worker has a complaint about their treatment (this could also be dealt with in a separate document).
- Termination. Specify the circumstances under which the contract can be terminated – on both sides.

Some freelance workers have their own contract that can be adapted to suit particular circumstances.

Written statement of employment particulars

Although a contract of employment can be made verbally, all employees who work for one month or more are entitled to a written statement of the main terms of their contract, within two months of starting work (the 'Written statement of employment particulars').[19] The statement is not a contract, but it can be used to clarify what has been agreed in the contract of employment. The statement must include the following:

- the employer's name;
- the employee's name;
- the start date of employment (and the preceding period of continuous service – see p. 7);
- job title or a brief job description;[20]

19 Employment Rights Act 1996.

20 It is advisable not to include the full job description as doing so means it becomes part of the contract of employment and could be difficult to change.

- the place of work and employer's address (if an employee works, or could work, in more than one place, this must be indicated here);
- amount or scale of pay and interval between payments (eg weekly or monthly);
- hours of work;
- holiday entitlement (including public holidays), holiday pay and rights to accrued holiday pay if an employee leaves without taking full entitlement;
- if the employment is not permanent, the period it is expected to cover;

The following items can be in another document (or documents), which must be readily accessible to the employee:

- sick pay arrangements;
- pension provisions, including whether the employee is contracted out of SERPS (see 'Retirement and pensions', p. 39);
- notice periods (by both employer and employee);
- the name or job title of the person to whom the employee should go with a grievance;
- any collective agreements which directly affect terms and conditions.

Employers with 20 or more employees must also include:

- disciplinary rules or where they can be obtained;
- who to go to if dissatisfied with a disciplinary decision;
- grievance procedure or where it can be obtained.

21 *Equality Pays: how equal opportunities can benefit your business; a guide for small employers* (Department for Education and Employment, 1997).

✓ Equality of opportunity and discrimination in employment

Providing equality of opportunity means just that – giving everyone equal access to the opportunity to reach their potential and treating everyone equally on their merits. It does *not* mean giving some people preferential treatment at the expense of others; it *does* mean treating everyone with equal concern.

Some aspects of discrimination are covered by law. However, statutory obligations have their limitations. Early years groups should adopt equal opportunities policies and practices that ensure everyone has the same opportunity both in recruitment and during employment, for example in relation to training, promotion and conditions.

Policy

An equal opportunities policy should include:

- a short, clear statement of the group's commitment to combating discrimination (in relation to recruitment and employment this would include achieving and maintaining a workforce that represents as far as possible the composition of the population and recruitment area);
- clear objectives to identify the priorities for action;
- procedures and a programme for achieving the objectives;
- monitoring and review methods.

Practice

The following checklist, taken from the DfEE's publication *Equality Pays*,[21] is useful when considering the group's equal opportunities practices in relation to recruitment and employment. Does the organisation:

- know about and observe the law?
- recruit from all sections of the community?
- identify the best available person for the job?
- consider flexible working arrangements?
- ensure that all employees have equal access to opportunities for training and development?
- let employees know it is an equal opportunities employer?
- include an equal opportunities statement in job advertisements?
- provide a clear and simple grievance procedure?
- review the effects of good practice?

All the above are covered in further detail in other sections of this book. For a list of relevant Acts of Parliament see page 21.

Good practice

Legislation relating to discrimination is limited and has no provision for trainees, volunteers and self-employed workers. It also excludes other groups of people who often face discrimination in employment, including older people, younger people and people who are HIV positive or who have AIDS.

Employers should adopt equal opportunities policies and practice which ensure that no member of staff, committee member, volunteer, trainee or freelance worker faces direct or indirect discrimination in any aspect of recruitment or employment.

Age

There is increasing evidence that older people experience discrimination in the workplace. For example, many employers stipulate the expected age range of applicants for posts. This is not illegal, but it would be good practice not to include age barriers. It is important in childcare

to have members of staff of various different ages who will bring a range of experience and life skills to the workplace, and can pass them on to the children.

HIV and AIDS

People who are HIV positive or who have AIDS are sometimes discriminated against out of ignorance. Employers can help alleviate this situation by ensuring other employees and everyone involved in the organisation has sufficient information on methods of transmission and good practice in health and hygiene procedures to help dispel myths about HIV and AIDS.

Employers should look at their equal opportunities and health and safety policies to ensure people who are HIV positive or who have AIDS are not discriminated against, and to safeguard their right to privacy and medical confidentiality.

Contracts should also take into account sick leave and flexible, phased return (and may include time off for carers of people with AIDS or other life-threatening illnesses).

Harassment

Unwanted, unreasonable or offensive actions or words about someone's sex, race, sexual orientation or disability is harassment, and the organisation should take strong action to prevent harassment and punish those who harass. Harassment can seriously affect an employee's confidence and consequently their ability to do their job. The employee may also find it very difficult to report.

Harassment could be judged to be unlawful discrimination. It could also amount to a criminal offence under Section 154 of the Criminal Justice and Public Order Act 1994 and the Protection from Harassment Act 1997. An offence can be committed even if the offender did not deliberately intend to harass anyone.

An employer is liable for the actions of their employees, so someone being harassed by a co-worker could take action against the employer under discrimination law.

Make sure the grievance procedure (see pp. 37–38) covers the possibility of harassment, including provision for suitable support.

Equality of opportunity and discrimination in employment

The main Acts covering anti-discrimination are:

- The Race Relations Act 1976;
- The Sex Discrimination Act 1975;
- The Equal Pay Act 1970;
- The Disability Discrimination Act 1995;
- The Rehabilitation of Offenders Act 1974.

Racial and sex discrimination

Under the Race Relations Act 1976 and the Sex Discrimination Act 1975 an employer must not discriminate on grounds of race, sex or marriage. All stages in the recruitment process and employment terms must treat all races and both sexes equally. 'Race' covers colour, race, nationality, and ethnic and national origin. The right not to be discriminated against covers:

- recruitment (advertising, shortlisting and interviewing)
- terms and conditions of employment
- access to promotion, training or other benefits
- dismissal
- redundancy
- retirement age.

The Acts cover both **direct discrimination** (treating one person less favourably than another on grounds of race or sex) and **indirect discrimination** (where a condition or requirement disadvantages one particular racial group or a greater proportion of one sex than the other). However, there are exceptions.

1 It may be that being a particular gender, or belonging to a particular racial group, is a genuine occupational qualification for a job. If this is the case it is lawful to advertise for one particular sex[22] or for a member of one racial group.[23] These exceptions relate mainly to the provision of personal services or (for single sex requirements) the maintenance of privacy and decency.
2 Positive action is designed to help members of under-represented racial groups, or one sex, compete on equal terms with others. If women or specific racial groups are under-represented in the workforce it is possible to state in a job advertisement that women, or members of particular minority ethnic communities, are particularly encouraged to apply. However, all applicants must be treated in the same way, and appointments must always be made on merit. The Commission for Racial Equality (CRE) and the

22 Sex Discrimination Act 1975, Section 7.

23 Race Relations Act 1976, Section 5.

Equal Opportunities Commission (EOC) have produced codes of practice that explain how to avoid discrimination in recruitment,[24] and can advise about permissible exceptions. Further information is also available from the DfEE's Race Relations Employment Advisory Service.[25]

Before using any of the exceptions mentioned above it is advisable to take legal advice or to check with the Commission for Racial Equality and/or the Equal Opportunities Commission.

Equal pay

Under the Equal Pay Act 1970 women and men doing the same sort of work, or work judged to be of equal value, must be employed under the same terms and conditions, including pay. For further information see the DfEE's book PL 743[26] and the Equal Opportunities Commission's code of practice on equal pay.[27]

Disability

The Disability Discrimination Act 1995 (DDA) makes it unlawful for an organisation with 20 or more employees[28] to treat a disabled person less favourably than someone else because of their disability, unless 'there is good reason'.

As with racial and sex discrimination, this applies to all employment matters, including recruitment, training, promotion and dismissal. Although this does not currently apply to organisations employing fewer than 20 people, the Act encourages all employers to follow good practice guidelines.

An employer can only justify less favourable treatment towards a disabled person if:

- such treatment is relevant to the circumstances of the individual case; *and*
- the reason for the treatment is a substantial one – a minor or trivial reason would not count as substantial.[29]

Employers must also make a 'reasonable adjustment' to working conditions or the workplace where that would help overcome the practical effects of a disability. For example, a reasonable adjustment could be to rearrange office furniture so that someone using a wheelchair is able to move around.

The employment code of practice gives practical guidance to help employers eliminate discrimination and should also help avoid complaints to industrial tribunals.[30]

For other useful publications on the Disability Discrimination Act contact the DDA Information Line on 0345 622633; textphone: 0345 622644 or the National Disability Council on 0171 273 5636.

Offenders

Under the Rehabilitation of Offenders Act 1974 ex-offenders have the right not to declare a 'spent' conviction when applying for a job. The rehabilitation period depends on the age of the person when convicted and the nature of the sentence. An offence resulting in a prison sentence of more than 30 months can never be spent.

Under the Act a spent conviction, or failure to disclose a spent conviction, is not a valid reason for excluding someone from employment, or for dismissal. However, there are exceptions, including working with children. Where an exception applies an individual must, if asked, disclose all convictions, including spent ones. Application forms for posts outside the remit of the Act should ask for details of convictions and include the following statement: 'This post is exempt under the Rehabilitation of Offenders Act 1974 and you are required to reveal all convictions, even those which are spent.'

For further information see 'Safeguarding children' (pp. 8–9) and The Rehabilitation of Offenders Act 1974.[31]

✓ Payment

Pay As You Earn (PAYE)

People who are employed under a contract of employment pay their tax through the Pay As You Earn (PAYE) system. All employers have to collect tax and Class 1 national insurance contributions from employees and send them to the tax office, together with the employer's National Insurance contributions. This obligation includes casual workers but does not apply to people who are self-employed because they are responsible for their own tax and national insurance payments (see 'Freelance workers', p. 19).

Who is covered by PAYE?

PAYE applies to anyone paid by an organisation unless they:

- are self-employed; *or*
- work for one week or less *and* earn less than the weekly tax threshold in this employment (£80 in 1998/99); *or*
- earn less than the national insurance lower earnings limit (£64.15 in 1998/99) *and* earn less than the weekly tax threshold in all employment.

The PAYE system is briefly described in on pages 24–25. However, we do not go into great detail of how to operate the system. Calculating deductions for PAYE is complex, mistakes can be

24 *Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment* (CRE, 1984). *Code of Practice (SDA)*, (EOC).

25 Race Relations Employment Advisory Service, 14th Floor, Cumberland House, 200 Broad Street, Birmingham B15 1TA: 0121 244 8141.

26 DfEE, PL 743: *Guide to the Equal Pay Act.*

27 Available free from the Publications and Marketing Unit, EOC, Overseas House, Quay Street, Manchester M3 3HN.

28 This threshold is under review.

29 DL 70: *The Disability Discrimination Act: Employment.*

30 *Disability Discrimination Act 1995: Code of practice for the elimination of discrimination in the field of employment against disabled persons or persons who have had a disability* (Stationery Office, 1996).

31 Rehabilitation of Offenders Act 1974 (NACRO, 1997).

expensive and can cause problems for both employer and employee. Unless there is a member of staff or someone on the management committee with the relevant experience (or who could be trained) it might be more cost effective to contract out the work.

Contracting out of PAYE

There are a number of community accountancy schemes and other voluntary organisations, including some councils for voluntary service, which will deal with all the responsibilities for administering salaries and making returns to the Inland Revenue. Information about a payroll service is also available from the National Early Years Network.

Most banks operate payroll schemes as do some local authorities. Contact the bank manager or local authority treasurer for further information.

Pay slips

All employees are entitled to an itemised pay statement. Further details are given on page 25.

Pay scales

It is good practice to pay workers on nationally negotiated pay scales. Pay scales are understood by funders and job applicants, and pay rises are negotiated nationally, removing the need to negotiate pay rises annually with each member of staff. Pay scales also help groups follow equal opportunities practice: by avoiding the need for annual pay negotiations, they protect employees who may find it difficult to negotiate their own salary. The use of pay scales may also be a condition of grant aid, or a service contract requirement.

Choosing which scales to use

Many voluntary organisations, including early years groups, use local authority pay scales – often referred to as NJC scales. Information about these scales is available from the National Association of Councils for Voluntary Service (NACVS) or local authorities (see 'Useful addresses', p. 42).

Deciding which point on the scale to pay

One way of calculating how much to pay a new employee is to place the post on the scale point nearest to the employee's existing salary, then to pay increments and increases accordingly. In this case, use the nearest scale point above the employee's existing salary.

Alternatively all posts could be evaluated. The Advisory, Conciliation and Arbitration Service (ACAS) and the Equal Opportunities Commission have published useful guidelines on job evaluation, or the local authority may be able to advise (see 'Useful addresses' p.42). Some CVSs have also devised evaluation systems.

Pay ceilings

If the organisation uses pay scales, it needs to decide what happens when someone reaches the top of the scale. This can be a particular problem with local authority scales, as most are very short and discriminate against the most experienced staff. Three alternatives are:

- to have linked scales, so someone who is employed in a post graded SO1/SO2 (on local authority scales) and reaches the top of SO1, will automatically move to SO2 (although, of course, the same problem will arise if they reach the top of the linked scale);
- to re-evaluate the post: if someone has been in a post for a number of years the job may have developed into one with more (or less) responsibility;
- for the employee to stay at the top of scale, and only receive cost of living increases.

In small organisations such as many early years groups, with little or no career structure, reaching the top of a pay scale can present a particular problem. Even if someone has been in post for some time, it does not follow that the post has developed, and there are probably very few – if any – promotion opportunities.

If there is no prospect of future pay increases, an employee may consider leaving, and the group could be in danger of losing an experienced worker.

The organisation may therefore want to consider paying long-serving workers further increments, even if they have – technically – reached the top of a salary scale.

London weighting

Pay scales in London have two components – basic pay and London weighting. The weighting is to compensate employees for the higher cost of living in the city and is a flat rate for all employees entitled to receive it. Where London weighting applies, it compensates people for having to *work* in the city, where travel and cost of living may be higher than in the surrounding area. London weighting is not affected by whether or not an employee lives in the city. When considering pay scales it is important to check whether London weighting is payable. If it is, this should be mentioned in the advertisement for the job.

There is different weighting for the inner city and outer city. Inner London Weighting applies to the inner London areas established by the old

GLC, and Outer London Weighting applies to outer London boroughs. Compensation for those working in the inner city is usually higher than for those working in the outer city.

Minimum wage

A National Minimum Wage of £3.60 per hour is being introduced from April 1999. This will apply to full- and part-time employees aged 22 or over. Employees aged 18–21 and workers starting a new job with a new employer and receiving accredited training will be entitled to a Development Rate – £3.00 per hour from April 1999 and £3.20 per hour from June 1999. The position of 21 year olds will be reconsidered after April 1999. The minimum wage will not apply to 16 or 17 year olds, nor to self-employed workers.

Pay rises

There are generally two types of pay rise in pay scales – annual increments and inflation awards.

Annual increments

Increments acknowledge length of service. The points on a pay scale can be thought of as rungs on a ladder, often called a spinal column, and it is usual for an employee to move up one point (or rung of the ladder) every year of service. This could take place, for example on the anniversary of their appointment or at the beginning of the financial year, provided that the probationary or other qualifying period has been successfully completed.

Inflation awards

These take account of rises in the cost of living. If using nationally recognised pay scales, the level of increase will be negotiated by the appropriate union. For example, most NJC (local authority) inflationary increases are negotiated by Unison. Inflation awards will apply to both basic pay and city weighting.

Inflation awards will be payable from a particular date, however long they take to negotiate (in the case of local authorities, from 1 April), so it is important to bear in mind the possibility of having to give back pay when looking at the group's finances.

Are all rises automatic?

If pay scales are used, pay rises – both increments and inflation awards – should be budgeted for annually. Increases should still be subject to agreement by the management committee but, unless financial circumstances dictate otherwise, this should be a formality.

Payment

Pay As You Earn (PAYE)

An organisation that employs paid staff – whatever they earn – must inform the PAYE tax office. If this is the first time staff have been employed, the tax office will send the organisation a New Employer's Starter Pack with appropriate tables, forms and detailed instructions on how to complete them, plus all necessary updates (for example if tax thresholds change).

During the tax year

On each pay day (which could be weekly or monthly) the employer must:

- calculate how much tax each employee has to pay;
- calculate national insurance (NI) contributions due from employees and the organisation;
- keep details of tax, NI, statutory maternity pay and statutory sick pay (if the organisation is operating the system – see pp. 33–34) on a Deductions Working Sheet (DWS: P11) for each pay day;
- make monthly payments of the total PAYE and NI contributions due to the Accounts Office, by the 19th of each month.[32]

Deductions Working Sheets must be kept for at least three years after the end of the tax year to which they apply.

At the end of the tax year (5 April)

The organisation will receive an Employer's Annual Return, form P35, from the Inland Revenue asking for details of each employee's pay and benefits. This must be sent in by the date on the form – if the form is returned late the organisation will be fined. The following forms must be completed.

- Form P14 – end of year summary (a summary of the DWS) for each employee.
- Form P35 – employer's annual return, which gives details of all employees' NI and tax deductions and recovered statutory sick pay and statutory maternity pay.

Form P14 consists of three parts. Part 1 and 2 go to the Tax Office; part 3 – the P60 – goes to each employee who is still working for the organisation at the end of the tax year.

When a new employee starts

A new employee who has been employed elsewhere should give the employer parts 2 and 3 of a P45 (supplied by the previous employer) on the first day of work. The P45 gives details of taxable income, tax paid in the current tax year and the employee's tax code.

Someone working for the first time who is going to

32 If the group's average monthly PAYE and NI payments are estimated to be less than £600, it can choose to pay quarterly, rather than monthly.

work for the group for more than a week will need to complete a P46 (available from the PAYE tax office). The employee must indicate on the form whether they have any other paid work and if so which is the main work. The P46 enables the employer to know how to operate a temporary tax code until the tax office advises on the permanent code. Detailed instructions on what to do with a completed P46 are given in the *Employer's Quick Guide to Pay As You Earn and National Insurance Contributions* (CWG1), which all employers automatically receive.

When an employee leaves

When someone leaves:

- enter the date of leaving on the P11 (DWS);
- complete a P45 (even if the employee is to stop working) – available from the PAYE tax office;
- give parts 1A, 2 and 3 of form P45 to the employee;
- send part 1 to the tax office immediately.

Further information

Leaflets and forms about tax are available from the local tax office or tax enquiry centre (listed in the phone book under 'Inland Revenue'). Leaflets about national insurance can be obtained from the Contributions Agency. *Employer's Quick Guide to PAYE and NICs* (CWG1) and *Employer's Further Guide to PAYE and NICs* (CWG2) are available from any of the above offices.

The Inland Revenue, Contributions Agency and Customs and Excise run the Employer's Helpline: 0345 143143, which offers general advice on PAYE, national insurance, statutory maternity pay and statutory sick pay. The helpline is open Monday–Friday, 8.30–5.00. Calls are charged at the local rate.

Pay slips

All employees are entitled to an itemised pay statement, giving the following information.

- Gross wages or salary.
- Amounts of any fixed deductions and what they are for (for example trade union dues, travel loan repayment or Give As You Earn contributions) or, if the employer has provided a 'standing statement' (see p. 26) the total amount of fixed deductions.
- Amounts of, and reasons for, variable deductions (for example tax, NI and pension contributions).
- Take home (net) pay.
- The amount and method of each part payment if different parts of net pay are paid in different ways (for example part paid in cash and part paid directly into the bank).

Summary of forms used in PAYE

Form no.	*Form title*	*Use*
P11	Deductions Working Sheet (DWS)	Record of each employee's deductions for PAYE, NI and statutory maternity pay (SMP). One for each employee.
P14	End of Year Summary	Record of total PAYE, NI and SMP deductions. One for each employee. Information taken from P11. Parts 1 and 2 are sent to the Tax Office, with P35. Part 3 (P60) is given to the employee.
P35	Employer's Annual Return	Total PAYE and NI from each employee's DWS. Used to calculate PAYE and/or NI (employee's and employer's) due. This is sent to the Tax Office with Parts 1 and 2 of P14.
P60	Employee's Certificate of Pay, Income Tax and National Insurance Contributions (NICs)	Given to each employee employed at end of tax year (5 April) who pays PAYE and/or NICs. NB: Form P60 is part 3 of form P14.
Note: The above make up the end-of-year return.		
P45	Details of Employee Leaving Work	Completed when an employee leaves. Includes total pay and tax paid to date, pay received and tax paid during current employment. Given to a new employer when a new employee starts.
P46	PAYE Employer's notice to Tax Office	Used to tell the Tax Office about employees who do not have a form P45 or employees previously paid below the PAYE threshold.

It is possible to buy pre-printed pay slips from office stationery suppliers, or the group can devise its own. An example is given on page 64.

Deductions cannot be made from an employee's wages unless they have consented, the deductions are required by statute (for example tax and national insurance) or it is a term of the contract of employment that the deduction will be made. Exceptions include:

- reimbursing a previous overpayment;
- deductions for payment to a third party (for example trade union dues).

Standing statements

An employer can give an employee a written standing statement of fixed deductions instead of details on each pay slip. The statement must be issued at least once every 12 months.

For each deduction it must show the amount, the reason and the intervals of payment. Reasons for any changes to fixed deductions must be given in writing.

33 David R. Smith, *Safe From Harm: a code of practice for safeguarding the welfare of children in voluntary organisations in England and Wales* (Home Office, 1993).

✓ Induction

All new employees – and existing staff moving into a new post – should be offered an induction programme. The induction should be designed to meet each individual worker's needs and enable them to meet the requirements of the job.

A well-planned induction can help a worker build confidence and improve motivation and performance.

Induction pack

Before anyone takes up a post it is useful to prepare an induction pack, covering information about the group and the job, which can be handed to them on arrival. It could include:

- induction timetable;
- staff members' names and roles, including union representatives;
- volunteers' names and roles;
- committee and subcommittee members' names and positions;
- relevant literature such as the last annual report and copies of recent newsletters;
- all essential policies, including equal opportunities, smoking, confidentiality, child protection, health and safety;
- procedures such as flexitime, sickness, holidays, expenses, complaints;
- minutes of the last two staff meetings or team meetings.

The programme

Induction should cover:

- the workplace: the new employee should be shown around the whole of the workplace;
- the job;
- colleagues: who they are, what they do, where they work;
- volunteers;
- committee members;
- service users;
- outside contacts;
- the organisation;
- all policies, including equal opportunities, smoking, confidentiality, child protection, health and safety;
- procedures, for example flexitime, sickness, holidays, expenses, complaints;
- location and operation of office equipment such as photocopiers;
- schedules, for example team meetings and staff meetings.

The induction process should last about four weeks, during which time there should be weekly meetings between the new employee and their supervisor.

Probationary periods

It is quite common to include a probationary period in contracts – usually lasting three or six months – to give both employer and employee an opportunity to decide whether they are suited to each other. During this time notice periods on both sides are normally shorter.

The Home Office's code of practice, *Safe From Harm*,[33] recommends in Guideline 11 that 'paid and voluntary appointments should be conditional on the successful completion of a probationary period' of between three months and a year, depending on the type of post and the number of hours worked. *Safe From Harm* states that the main purpose of the probationary period is to enable an organisation to monitor the staff member in order to allow statutory checks and be assured that they are a 'fit person' to be in the proximity of young children.

If the group does operate a probationary period, explain to all new appointees its purpose and the review dates.

It is good practice to have two review meetings – half-way through and shortly before the end of the period. The mid-term review gives employer and employee an opportunity to discuss any problems and plan future work. If work is unsatisfactory it should be made absolutely clear to the worker what the problems are and what changes are expected.

The end of probationary period review will either:

- confirm the appointment;
- extend the probationary period;
- terminate the employment.

If the probationary period is to be extended (usually for a further four or eight weeks) it is essential for the staff member to fully understand what is expected within that period and for regular reviews to be built in to the extension.

If the employment is not confirmed, consider whether the group's recruitment procedures need to be reviewed.

✓ Supervision and appraisal

Regular supervision and appraisal can help motivate staff by providing a structured opportunity to discuss people's work, highlight achievements and assess progress.

It can also help to identify problems – or potential problems – at an early stage and avoid the need for disciplinary action. All workers at every level in the organisation should have regular opportunities to discuss their progress, actual or potential problems and their feelings about their current work.

Safe From Harm Guideline 6 states that groups should 'Use supervision as a means of protecting children'. It recommends that the supervisor should ask questions about the staff member's working and personal relationships with the children they come into contact with, and suggests that supervision should take or create opportunities for observing staff while they are working with children.

This section on supervision gives a brief introduction to the nature and purpose of supervision and appraisal, and includes suggestions on preparing for and conducting supervision sessions. Much of the content has been reproduced from Chapter 16 of Sandy Adirondack's *Just About Managing?*, which goes into greater detail about supervision and support.[34]

Supervision

Who supervises whom?

An employee's line manager will usually carry out the supervision. The manager or senior officer will often be supervised by the chair, or possibly an outside consultant.

What is the purpose of supervision?

The main purposes of supervision are to:

- monitor work and work performance;
- evaluate work and work performance;
- clarify priorities;
- share information about work;
- provide an opportunity to discuss how the worker and supervisor feel about the work;
- recognise and deal with existing or potential problems;
- discuss how outside factors are affecting work;
- provide a framework for discussing and agreeing change.

Frequency of supervision

Supervision should be regular and structured. This gives both the supervisor and the person being supervised time to prepare for the session and so increase its effectiveness. Sessions should be held every month or six weeks; more frequently during the first few weeks of employment. Ideally, scheduling should be flexible enough to allow for more frequent sessions at times of change, or when the individual or organisation is experiencing stress.

Allow up to an hour, and make sure there is somewhere private and quiet to hold the session. Supervision should not be cancelled without a good reason: it does not matter if the session has to be shorter than usual (it could take just 15 minutes), but it is important that planned sessions always take place.

34 Sandy Adirondack, 'Managing workers' performance', in *Just About Managing?*, 3rd edn (London Voluntary Service Council, 1998).

Preparation

Supervision sessions are much more useful if both worker and supervisor have thought beforehand about the situation. Workers might want to consider the following questions.

- What have I done since the last session that I am pleased about? How has my work improved? What factors have helped me work better?
- What have I done since the last session that I am unhappy about? Why did I do it in that way? What would help me do it differently in future?
- Have I done what I set out to do at the last session? If not, why not?
- What do I want to do before the next session? What will the priorities in my work be? How do they fit into the priorities of my workgroup, team and the organisation?
- Am I happy with the amount and type of work I have to do and the conditions in which I work? If I am unhappy, what could improve the situation for me?
- Is anything or anyone at work creating a problem for me? How could this be dealt with?
- Are situations or people in my personal life affecting my work? Do I need support to deal with the effects on my work, or with the situations themselves?

The supervisor should consider a similar set of questions.

- What has the worker done since the last session that I am particularly pleased about? How has their work improved? What factors might have helped them work even better? How can I help the worker build on this success?
- What has the worker done since the last session that I am unhappy about? Why did it happen? What could I or other people in the organisation have done to prevent it or make it better? What can we do to prevent such things happening in future?
- Has the worker done what was agreed at the last session?
- Am I satisfied with the quantity and quality of work?
- What do I think the worker should be concentrating on before the next session?
- How will this fit in with the worker's own priorities?
- Does the worker seem to be overworking or underworking? Are there problems about timekeeping? Is the worker keeping up with essential administration, maintenance and other routine tasks?
- Am I aware of any particular problems for this worker, at work or at home, that I should bring up?

At the end of the session, confirm the date of the next session and anything that needs to be done – by the worker or the supervisor.

Non-managerial supervision

Non-managerial supervision involves a supervisor who has no direct link with the management of the individual's work and who may not even have a direct link with the organisation.

Another possibility is a support group, whose function is to provide support for the worker, rather than manage their work.

Situations where non-managerial supervision may be appropriate include:

- support for workers in high-stress jobs, where it might not be appropriate for the manager or a management committee member to do the supervision (sometimes called external supervision);
- support for the manager or senior officer, where there is no management committee member able or willing to provide supervision.

Links with the organisation

The relationship between the non-managerial supervisor and the managerial supervisor or management committee must be carefully worked out. Non-managerial supervision can provide opportunities for workers to talk and think through situations, but the responsibility for implementing changes still lies within the organisation.

Sometimes the non-managerial supervisor has absolutely no links with the organisation or the worker's manager; everything said in the non-managerial supervision session is confidential and it is the worker's responsibility to implement, through the normal managerial channels, any changes.

At the other extreme there may be direct links, with the non-managerial supervisor conveying to the manager or chair of the management committee what has been said and agreed in each session. Clearly, very complex issues of confidentiality and responsibility need to be considered here.

Volunteers and secondees

Regular or long-term volunteers should have the same opportunities for supervision and support as paid staff. The process may need to be adapted for their particular situation.

For shorter-term or casual volunteers it is often helpful to have regular brief one-to-one sessions, primarily to get feedback from the volunteers about how they are feeling, to ensure they are formally praised and thanked for their work, and to provide a regular setting within which problems can be addressed.

If there are volunteers with special support needs (for example, people who have never been in paid employment, or who have learning difficulties or mental health needs) adequate extra time must be allowed for induction, support, supervision and training.

Unsuitable volunteers

Some volunteers may lack the skills or knowledge needed by the organisation. In most cases this can be overcome through training or by providing new tasks suitable for the volunteer. However, some volunteers may need more training or support than the organisation can justify giving. It is important to acknowledge this, rather than ignoring it and allowing a volunteer to become a drain on the organisation.

Telling a volunteer that they are unsuitable is an uncomfortable task. It will be easier if a clear explanation can be given about what the organisation can offer volunteers, what it needs from volunteers, and why this volunteer cannot be accommodated. It might be possible to suggest another organisation more suited to the volunteer, but this should never be done if the volunteer is likely to be rejected there too.

Clear guidance is needed when parents are volunteers and have younger children who need

to accompany them while they work. This also applies to childminders, nannies and other carers who offer to help in a group as volunteers.

Appraisals

Supervision sessions deal primarily with problems or issues that may arise every day, every week or every month.

Staff appraisals (or 'reviews') are held once or twice a year and take a longer view, providing an opportunity for workers and supervisors to look in more depth at how workers feel about their jobs, their career development and the organisation as a whole. Generally they are more formal than supervision sessions and might be done by a senior manager or member of the management committee along with, or instead of, the usual supervisor. Appraisals should generally be held:

- a few weeks after the worker starts work, and again a few weeks later (if there is a probationary period, half-way through and shortly before the end of the period);
- six months later;
- annually thereafter.

One person in the organisation (either a worker or management committee member) should have responsibility for keeping track of when appraisals are due and notifying the worker and the person who will be doing the appraisal.

Preparation

As with supervision sessions, staff appraisals are more effective if everyone involved has spent some time on preparation. One way to encourage this is by having a standard set of questions for the worker, manager and supervisor (if different from the manager). The questions should form the basis for the appraisal, but the appraisal should not be a question-and-answer session. Before the appraisal, the worker and manager should think carefully about which questions are relevant and make a note of any particular points they want to cover.

Perhaps the most important aspect of preparation is to remember that praise is at the root of appraisal. An appraisal session should be, first and foremost, an opportunity to acknowledge, comment and build on the worker's strengths and achievements.

Content

Topics to cover during appraisal could include the following. For the first appraisal after the person starts work:

- how the worker feels about working in the organisation;
- whether the job has or has not met their expectations.

For future appraisals:

- changes since the last appraisal;
- the worker's own job;
- the rest of the organisation;
- the organisation's policies and procedures;
- relations with other people;
- relations with other organisations;
- long-term plans.

For details of specific questions to cover under each topic, see *Just About Managing?*[35]

Follow-up

A staff appraisal follow-up sheet might include sections with the following headings:

- changes in the job;
- changes in the organisation's procedures;
- other organisational changes;
- training and other opportunities for learning;
- other tasks or objectives.

Any follow-up points should include a timescale of when it is likely to be done and say who will be responsible for doing it. The timescale might be immediate or very long term.

The follow-up sheet should end with a note of the month when the next appraisal will be held. It should be typed up (if necessary) and two copies signed by the worker and manager. The top copy goes to the worker and the second signed copy goes in the worker's personnel file, with photocopies, if required, for the worker's manager and/or supervisor.

The follow-up sheet should be reviewed as appropriate at supervision sessions, and should form the starting point for the next appraisal.

35 Sandy Adirondack, 'Managing workers', in *Just About Managing?*, 3rd edn (London Voluntary Service Council, 1998).

36 Employer's Liability (Compulsory Insurance) Act 1969.

37 Health and Safety at Work Act 1974 or Occupier's Liability Act 1957.

✓ Insurance

Types of insurance

There are three types of insurance relating to employment that organisations need to consider:

- employers liability[36]
- public liability[37]
- professional indemnity.

The employers liability is compulsory, public liability is advisable and the last depends on the type of work done.

There is a range of tailor-made schemes for early years groups. For further information see 'Buying insurance' on page 30.

Employers liability insurance

All employers are legally obliged to insure against claims by employees for injury or disease.

The insurance must be for at least £2 million to cover any one claim, and the certificate must be displayed in the workplace. There is no legal obligation to take out such insurance for volunteers, but it is good practice to do so, and any insurance policy must specifically mention volunteers or they may not be covered. They can be included within employer's liability insurance or under public liability insurance.

Public liability insurance

It is essential for early years groups to take out public liability insurance as well as employers liability insurance, as only this kind of insurance covers children. Public liability insurance can cover anyone who is not an employee (including children, parents, visitors, volunteers, self-employed workers, committee members, trainees and service users) who suffers loss, injury or damage as a result of the organisation's negligence. The Children Act 1989 guidance strongly recommends that all daycare providers should be covered by public liability insurance. Note that no claim on insurance can be made if the loss, injury or damage suffered is caused by a genuine accident that could not have been foreseen by the group.

Make sure that everyone is covered by the policy; many insurance companies may not be used to dealing with early years groups and would not, therefore, automatically include volunteers and committee members. Also let the insurance company know if the organisation uses trainees or consultants.

Professional indemnity insurance

Professional indemnity insurance is designed to cover the cost of defending claims and any damages payable if a group gives incorrect advice or information, or poor service to a member of the public that results in injury, damage or financial loss. 'Incorrect' covers error, omission or neglect. This insurance can also cover defamation (libel and slander), destroyed documents and employees' dishonesty. A group may be liable even if advice was given free of charge.

It is also possible to take out separate defamation insurance.

Self-employed workers

If self-employed workers are engaged for work which could involve some form of risk, for example by giving professional advice that leads to injury, damage or loss, they should have adequate professional indemnity insurance in their own name.

Buying insurance

Insurance can be bought directly from an insurance company or through a broker. If a group is taking out insurance for the first time it might be worth finding out what companies are used by other local early years groups.

Schemes designed specifically for early years groups include those available from:

- the Pre-school Learning Alliance (0171 833 0991, for PLA members only);
- National Childminding Association (0181 464 6164, for registered childminders only);
- Kinderguard – recommended by the National Private Day Nurseries Association (01452 528533);
- Morton Michel – recommended by Playgroup Network and Kids Clubs Network, and a discount is available for KCN members (0181 778 2445 for playgroups, nurseries, creches and schools; 0181 765 1067 for childminders, nannies, after-school clubs and holiday playschemes).

For a list of registered insurance brokers in the area contact the British Insurance and Investment Brokers' Association (0171 623 9043).

✓ Health and safety at work

The major piece of health-related legislation that employers need to be aware of is the Health and Safety at Work Act 1974 (HASW). Under HASW, employers must provide a safe working environment and a safe workplace, and employees must abide by the organisation's agreed procedures. This relates not only to paid staff, but also to others using the group's premises and equipment, including children, members of the public, committee members, self-employed workers, volunteers and parents.

For details see pages 31–33.

First aid

There is no legal obligation to have a trained first aider if there are fewer than 50 employees. However, it may be seen as a breach of the duty of care if no member of staff is able to deal with such emergencies. Children Act Guidance states that it is desirable for people providing daycare in non-domestic premises to have at least one member of staff trained in first aid.

At the very least, make sure there is one person nominated to take charge if someone becomes ill or is injured, including calling an

ambulance if necessary. This person should preferably be trained in first aid, and will look after the first aid equipment. This includes keeping the first aid box stocked (see p. 33), ensuring there is a record of the box's contents and keeping an accident book, which contains:

- details of any accidents, who was involved, when, what happened at the time and what happened afterwards;
- instructions given by families about medication to be given to their children;
- parent's/carer's signature showing they have given permission for the organisation to give medication to their children;
- details of when the medication is given, recording dose and time.

If there are nominated first aiders in the group, someone should be available to cover if they are absent.

Details of how employers should comply with their responsibilities under HASW are given in six Regulations, sometimes referred to as the 'six pack', which came into force in 1993:

- The Management of Health and Safety at Work Regulations 1992;
- The Workplace (Health, Safety and Welfare) Regulations 1992;
- The Display Screen Equipment Regulations 1992;
- The Manual Handling Operations Regulations 1992;
- The Provision and Use of Work Equipment Regulations 1992;
- The Personal Protective Equipment at Work Regulations 1992.

The Health and Safety Commission has published Approved Codes of Practice (ACOPs) and guidance recommending how each of the above Regulations should be implemented. These are available from Health and Safety Executive Publications.

Other legislation

Other legislation relating to health and safety includes:

- The Control of Substances Hazardous to Health Regulations 1994 (COSHH);
- The Health and Safety (First Aid) Regulations 1981 (Revised Code of Practice 1997);
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR);
- The Management of Health and Safety at Work Regulations 1992.

Under these Regulations, which are perhaps the most important, all employers must:

- assess significant risks to employees and other people using their premises and, if there are five or more employees, keep a written record of the assessment (it is good practice to do this however many people are employed);
- take particular account of potential risks for new and expectant mothers;[38]
- assess particular risks for young people under 18, taking into account their inexperience and possible lack of awareness;[39]
- make arrangements for effective planning, organisation, control, maintenance and review of health and safety;
- appoint 'competent persons' to carry out a risk assessment (see below) who must be given sufficient information, training and resources to do their job;
- establish procedures to deal with dangerous situations, including nominating 'competent persons' (see 'Carrying out a risk assessment', below) to take charge of evacuating the premises if necessary;
- provide adequate, relevant training in health and safety to all employees when recruited and, if risks change, give appropriate information to employees, non-employees and temporary workers;
- inform workers about potential risks, preventative and protective measures and emergency procedures, and tell them who is responsible for health and safety and for evacuation procedures.

If a number of organisations share premises they must all co-operate to ensure the safety of their own and other organisations' staff. This also applies to temporary agency staff.

The HSE has published details of how to manage the HASW Regulations.[40]

Carrying out a risk assessment

The risk assessment must take account of what *actually* happens in the workplace as opposed to what is supposed to happen. For example, if staff ignore safety instructions on equipment use, the resulting risk must be included within the assessment.

Pay particular attention to those who may be especially at risk, for example new or inexperienced staff or volunteers and disabled people, and those who may have difficulty understanding written or spoken English.

The assessment must be carried out by a 'competent person', that is someone who 'has sufficient training and experience or knowledge and other qualities' to carry out their function. If there is no one suitable on the staff or management committee, the organisation will need to employ an outside consultant.

38 The Management of Health and Safety at Work (Amendment) Regulations 1994. For guidance see *New and Expectant Mothers at Work* (Health and Safety Executive, 1997).

39 The Health and Safety (Young Persons) Regulations 1997. For guidance see *Young People at Work: a guide for employers* (Health and Safety Executive, 1997).

40 *Management of Health and Safety at Work Regulations 1992: approved code of practice* (L21) (Health and Safety Executive, 1992).

32 32

The risk assessment should:

- identify hazards;
- decide who might be harmed and how;
- assess the risks and take appropriate action either to remove them or to reduce them as far as possible;
- record the findings;
- check the risks regularly to assess further necessary preventative and protective measures.

The assessment applies to self-employed workers, management committee members, parents and members of the public using the premises as well as paid staff. For further information see *Five Steps to Risk Assessment*[41] and *Five Steps to Health and Safety Management.*[42]

New and expectant mothers

If risks cannot be avoided in any other way, changes will have to be made to a new or expectant mother's working conditions or hours, or she should be offered suitable alternative work. It this is not possible, she will need to be given paid leave for as long as is necessary to protect her health and safety or that of her child.

Information for employees

This duty applies to all employees, including temporary staff, trainees and part-time workers. Information must be supplied in a form suitable for all workers, so special consideration may need to be given to the needs of disabled people – for example by having information available in Braille or large print or on tape – and to people whose first language is not English.

Employees' duties

Employees also have responsibilities. They must:

- take reasonable care for their own, and other people's, health and safety;
- co-operate with employers to enable them to comply with the Act, for example by reporting dangerous situations;
- inform the employer about shortcomings in health and safety arrangements.

Health and safety policy

An organisation with five or more paid staff must have a written health and safety policy and make all employees aware of it. It is good practice to have a written policy and procedure, regardless of the number of paid staff, covering:

- general policy on health and safety;
- details of specific hazards and how they are to be dealt with;
- management responsibility for safety;
- how the policy will be implemented;
- how and when it will be reviewed.

All employers must either display the Health and Safety Law poster at work or hand out the appropriate leaflet. Both are available from the local Health and Safety Executive office.

Workplace safety

Employers have a legal obligation to ensure the premises are safe.[43] This covers:

- safety of equipment, eg emergency lighting and ventilation systems;
- working environment, eg temperature, lighting and cleanliness;
- physical comfort, eg workspace and seating;
- structure of the building, eg floors, falling objects, windows, traffic routes, doors and gates;
- provision of facilities, eg sanitary and washing facilities, drinking water, clothing, and rest and meal facilities.

Steps must also be taken to provide safe working systems for employees. This includes ensuring staff are well-enough informed and receive sufficient training to enable them to carry out their work safely, and checking that systems are being followed.

Full information is published by the Health and Safety Executive.[44]

Computers

A computer 'user' is defined by the Display Screen Equipment Regulations 1992 as an employee who 'habitually uses display screen equipment as a significant part of his normal work'. This is vague, and it would be good practice to include anyone who uses computers as a significant part of their work.

Under the Regulations the employer must:

- assess risks to VDU users;
- reduce risks to a minimum;
- plan users' work to include break periods;
- pay for users' eye tests when requested, and for special glasses or lenses if they are needed;
- give users health and safety training in VDU use.

Any equipment installed after 1 January 1993 must comply with a set of requirements laid down in the Regulations. These relate to the whole 'workstation'.

The Health and Safety Executive has full details of requirements.[45]

Manual handling

Wherever possible, avoid the need for staff to undertake manual handling which involves a risk of injury.[46]

If a task cannot be avoided (which may be the case with early years workers who might have to lift children during the course of their work or lift heavy equipment from awkward storage spaces), the risks involved should be assessed against a series of factors set out in the Regulations.

Full details and a model checklist are published by the Health and Safety Executive.[47]

41 *Five Steps to Risk Assessment: a step by step guide to a safer and healthier working workplace* (Health and Safety Executive).

42 *Five Steps to Successful Health and Safety Management: special help for directors and managers* (Health and Safety Executive).

43 Workplace (Health, Safety and Welfare Regulations) 1992.

44 *Workplace (Health, Safety and Welfare Regulations) 1992: approved code of practice* (L24) (Health and Safety Executive, 1992).

45 *Provision and Use of Work Equipment Regulations 1992: guidance on regulations* (L22), (Health and Safety Executive, 1992).

46 Manual Handling Operations Regulations 1992.

47 *Manual Handling Operations Regulations 1992: guidance on Regulations* (L23) (Health and Safety Executive, 1992).

Equipment

Appropriate equipment, materials and clothing should be provided, to ensure employees can work in reasonable safety and take reasonable steps to protect employees if there is risk of injury from criminals or others.[48] This could include, for example, providing staff with personal alarms.

It is important to balance the needs of the organisation to achieve its objectives against the risks faced by staff and measures that could be taken to reduce or avoid the risks.

The Control of Substances Hazardous to Health Regulations 1994 (COSHH)

COSHH Regulations require employers to identify hazardous substances in the workplace and assess risks to employees. This could include, for example, photocopier toner and cleaning fluids. For further information and guidance see *A Step by Step Guide to COSHH* (HSG97).[49]

First aid

All employers must provide 'adequate and appropriate equipment, facilities and personnel' to enable first aid to be given to employees if they are injured or become ill at work.[50] What is 'adequate and appropriate' depends on the nature of the work and workplace, but minimum first aid provision is:

- a suitably stocked first aid box;
- an 'appointed person' to take charge of first aid arrangements.

First aid boxes

The contents of first aid boxes depends on the needs of the workplace. They should have only those items a first aider has been trained to use and should not contain any tablets or medicine (including paracetamol and aspirin). A list of minimum stock is given in *First Aid at Work: your questions answered*, available from the Health and Safety Executive.

Accidents and diseases

Employers have a legal duty to keep an accident book and to record fatal accidents and those which result in three or more days' absence. This applies to a self-employed person working on the premises as well as employees. It is good practice to record *all* accidents. Under RIDDOR[51] incidents that result in a worker being taken to hospital must also be reported. This includes assault or violence at work.

If an employee is suffering from a 'notifiable' disease the enforcing authority (which is usually the local authority's environmental health officer) must be informed. For examples of notifiable diseases and further information about reporting accidents and diseases, see *RIDDOR: everyone's guide to RIDDOR 95*,[52] which also includes a report form.

To find out if a disease is notifiable, contact the Health and Safety Executive or see the Health and Safety Executive's list.[53]

Safety representatives

All employers, whether or not they recognise trades unions, must consult employees on matters relating to employees' health and safety at work.[54]

✓ Sick pay and leave

Statutory sick pay (SSP) is the minimum level of sick pay. It is possible to build in better terms but remember to consider financial implications.

Sick pay and leave

Most employees who are off work for four or more consecutive calendar days – the period of incapacity for work (PIW) – are entitled to receive statutory sick pay (SSP) for the first 28 weeks of sickness. The current weekly SSP rate (1998/99) is £57.70.

The SSP paid out in any month can be reclaimed if it is more than 13 per cent of the group's total national insurance contributions for that month (ie both employer's and employees'). This relief is called the 'percentage threshold scheme', and is designed to help employers who have a high percentage of their employees sick at any one time.

The employer must decide which days of a period of sickness will qualify for payment of SSP – the 'qualifying days'. These are usually normal working days and must be stated in the statement of employment particulars (see pp. 19–20).

Although SSP is only paid for qualifying days, all days off count towards sickness, including weekends and public holidays. So, for example, if the organisation's qualifying days are Monday to Friday, someone who calls in sick on a Thursday and returns to work the following Tuesday will have been off sick for five calendar days, but will only qualify for *three* days' SSP – Thursday, Friday and Monday.

For absences of four to seven days it is usual to ask employees to sign a self-certificate form (either the group's own or form SC2, available from Benefits Agency offices). For absences of more than

48 Provision and Use of Work Equipment Regulations 1992.

49 Available from the Stationery Office or the Health and Safety Executive.

50 Health and Safety (First Aid) Regulations 1981.

51 Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995.

52 *RIDDOR: everyone's guide to RIDDOR 95* (Health and Safety Executive, 1995).

53 *A Guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations* (Health and Safety Executive, 1995).

54 Health and Safety (Consultation with Employees) Regulations 1996.

seven days it is usual to ask for a medical certificate. The employer cannot insist on a medical certificate for absences of less than seven days.

Exceptions

SSP does not have to be paid if, on the first day of the PIW an employee:

- is over 65;
- has average weekly earnings (see below) under the national insurance (NI) lower earnings limit (£64 in 1998/99);
- has already received 28 weeks' SSP in the PIW;
- has not yet done any work for the organisation;
- has a contract for three months or less;
- is within 'the disqualifying period' of her pregnancy (ie from 11 weeks before the expected date of birth to six weeks after);
- has claimed social security benefit that links with the PIW.

Calculating average weekly earnings

For most employees it will be obvious if their earnings exceed the level for NI payments. However, if someone is working irregular hours or, for example, has unpaid leave, it may not be so straightforward. To calculate someone's weekly earnings:

- establish the 'relevant period' – usually eight weeks up to and including the last pay day before the start of the PIW;
- add together the gross earnings in the 'relevant period';
- divide the gross earnings by the number of weeks.

See box for an example calculation.

If an employee is not entitled to SSP, the employer must complete form SSP1 so that the employee claim social security benefit.

An organisation can choose not to operate many of the rules of the SSP scheme if it pays occupational sick pay or normal wages at or above the SSP rate. However, it will still be necessary to keep basic records. For further details see *Statutory Sick Pay Manual for Employers* (CA30).[55]

55 *Statutory Sick Pay Manual for Employers: CA 30* (Contributions Agency, 1997).

56 Employment Rights Act 1996 and health and safety legislation.

Calculating average weekly earnings

An employee is sick from 17 July to 24 July. This person is paid each Friday. The last normal pay day before the period of PIW is 11 July. The last normal pay day at least eight weeks before that is 16 May. The 'relevant period' is therefore 17 May to 11 July. Earnings in that period were:

Date	*Earnings (£)*
23 May	100
30 May	80
06 June	unpaid leave
13 June	80
20 June	100
27 June	80
04 July	80
11 July	80
Total	600

Number of weeks covered by payments	8
Average weekly earnings	£600
	÷ 8
	£75

✓ Maternity rights

Employers have a number of legal obligations towards pregnant employees and employees who have returned to work after giving birth.[56] These relate to:

- antenatal care
- maternity leave
- maternity benefit
- health and safety.

Statutory obligations are detailed on pages 34–36. These are minimum rights, and it is possible to give better terms, for example by increasing the length of maternity absence or topping up maternity pay. However, it is important to consider the implications – both financial and administrative – for the organisation if better terms are offered. Suggested good practice is given in the terms and conditions of the sample contract (see pp. 60–62).

Paternity and parental leave

Although it is not yet law, it is becoming increasingly common to give paternity leave, and to extend parental leave to cover adoption as well as birth (for details of forthcoming legislation see p. 36).

Maternity rights

Rights for all pregnant employees

Any employee, regardless of length of service or hours of work is entitled:

- to reasonable paid time off during working hours for antenatal care (including relaxation and parentcraft classes);
- not to be unfairly dismissed, or selected for redundancy, because she is pregnant or on maternity leave;
- if dismissed while pregnant or on maternity leave, to receive a written statement of reasons without having to request it;
- to at least 14 weeks' maternity leave (if she gives at least 21 days' written notice);
- to receive all contractual benefits, except wages, during maternity leave (for example accruing annual leave and pay increments);
- to return to her normal job on the same terms and conditions after maternity leave;
- if a redundancy situation occurs during maternity leave, to be offered suitable alternative employment, if available;
- to be sent home on full pay if there is an unavoidable health or safety risk to her as a new or expectant mother,[57] and no suitable alternative work can be found.

Acquired rights

A pregnant employee with at least two years' continuous service by the beginning of the eleventh week before her baby is due, is entitled to an additional period of maternity absence, lasting from the end of her maternity leave up to the end of the twenty-eighth week after the baby is born. It is good practice, although not a legal obligation, to continue her normal terms and conditions during this period.

In most circumstances she also has the right to return to her normal job on the same terms and conditions after maternity absence. However, if five or fewer staff are employed, the employer is under no obligation to take back a woman after maternity absence if it would not be reasonably practicable to do so (in the event of a dispute, an industrial tribunal would decide what was 'reasonably practicable').

Maternity leave

Maternity leave can start any time after the beginning of the eleventh week before the baby is due, provided the employee has given at least 21 days' written notice, where reasonably practicable. If the baby is born before maternity leave was due to start, the leave starts on the date the baby was born.

If a pregnant woman is absent from work because of a pregnancy-related sickness during the six weeks before the baby is due, her maternity leave will start from that point.

Under health and safety regulations a woman is not allowed to work within two weeks of giving birth. Therefore, if the normal 14-week leave has expired before a woman is allowed to return to work, the maternity leave will be extended until two weeks after the child's birth.

Anyone on maternity leave should continue to be informed about available jobs. A woman on maternity leave should not be denied access to any job, promotion or other workplace opportunity that might have been available to her had she not been on maternity leave. She should not be turned down for an interview simply because she is on maternity leave.

Breastfeeding

If a woman who has returned from maternity leave wishes to carry on breastfeeding her infant, appropriate facilities must be provided for her to express her milk and to store it in hygienic conditions.

Statutory maternity pay

Statutory maternity pay (SMP) is payable by an employer for up to 18 weeks to a woman who:

- has built up at least 26 weeks' continuous service by the end of the fifteenth week before the baby is due;
- earns at least the national insurance (NI) lower earnings limit (£64 in 1998/99).

This applies even if the woman does not intend to return to work after the baby is born.

SMP is 90 per cent of normal earnings for the first six weeks and a flat rate (£57.70 per week in 1998/99) for the remaining weeks. Again, these are minimum rates and could be increased by the employer.

An employer whose total NI contributions (employer and employee) are £20,000 or less in the qualifying tax year is reimbursed in full by the government, and will receive an additional 6.5 per cent of SMP to cover the cost of administering the scheme. Other employers will receive 92 per cent of the SMP paid out.

Women who do not qualify for SMP may be entitled to claim Maternity Allowance direct from the Benefits Agency.

Part-time returners

There is no legal right for a woman who previously worked full time to work part time or on a job-share basis on return from maternity leave. However, any request for such a working arrangement should be considered seriously. An unreasonable refusal could amount to unlawful direct sex discrimination.

57 The Management of Health and Safety at Work (Amendment) Regulations 1994.

Parental leave

Under current law employers are not obliged to give paternity, or any other type of parental leave. However, under the Parental Leave Directive,[58] legislation will have to be passed by October 1999 giving workers some automatic rights to unpaid parental leave, and a right to time off for urgent family reasons. Each parent will have the right to at least three months' unpaid leave on the grounds of the birth or adoption of a child.

✓ Disciplinary rules and procedures

'Disciplinary rules' and 'disciplinary procedures' may seem harsh – or unnecessary – words in the context of a small voluntary organisation such as an early years group, and there may be a temptation to deal with issues as and when they occur. However, problems can arise in any work situation and it is important for both employees and employers to be clear about expected standards of conduct, about what would be deemed unacceptable behaviour and how it would be dealt with.

Clear rules and procedures also help ensure equitable treatment and can assist in an organisation's effective and smooth operation.

It is good practice to include details of any disciplinary rules and procedures in the written statement of employment particulars (see pp. 19–20), although there is no legal obligation to do so if the organisation employs fewer than 20 people.

Disciplinary rules

It is helpful to have a clear set of rules outlining expected standards of conduct and unacceptable behaviour at work. This should cover areas such as:

- absence;
- health and safety;
- work performance;
- harassment;
- adherence to the equal opportunities policy;
- timekeeping;
- personal use of the organisation's equipment and telephone.

Not all breaches of rules need disciplinary action. Wherever possible try to sort out minor problems informally, usually at supervision (see pp. 27–29)

Disciplinary procedures

A disciplinary procedure should be constructive. It should not be seen as a form of punishment. The Advisory, Conciliation and Arbitration Service (ACAS) publishes a code of practice on disciplinary practice and procedures in employment.[59] In a small organisation such as an early years group it may not be possible to adopt all the provisions, but most of the following features could be incorporated in a simple procedure. Disciplinary procedures should:

- be in writing;
- specify to whom they apply;
- enable matters to be dealt with quickly;
- ensure individuals are made fully aware of the disciplinary offence;
- state the type of disciplinary action which can be taken and who can take it;
- provide for a full investigation that gives individuals an opportunity to state their case;
- allow individuals to be accompanied by a trade union representative or a colleague of their choice at all stages;
- not permit dismissal for a first offence (except for gross misconduct);
- ensure an explanation is given for disciplinary action;
- include an appeals procedure.

The disciplinary procedure should include a series of stages. ACAS recommends a minimum of four:

- verbal warning
- written warning
- final written warning
- dismissal.

Some organisations include a second verbal warning and a second written warning before a final written warning. Employees should be informed of their right of appeal, how to make it and to whom.

Verbal warnings should be confirmed in writing and a note made on the employee's personnel record.

Written warnings

A written warning, in the of form a letter, should state:

- the precise nature of the offence;
- the improvements and/or action required, and timescale;
- a plan for assistance;
- that lack of progress will result in a second/final warning.

A final written warning should state that failure to make stated improvements, a recurrence of the disciplinary offence, or other serious misconduct will result in dismissal.

58 European Social Chapter.

59 *ACAS Codes of Practice 1: Disciplinary Practice and Procedures in Employment* (The Stationery Office).

Keeping records
Records should be kept of all details of a disciplinary action and subsequent developments. However, all records, except those relating to some serious offences, should be removed from an individual's file and destroyed after a period of satisfactory conduct, say six months after the disciplinary hearing for verbal warnings and twelve months for written warnings. During this time the employee will be entitled to have access to the records.

Gross misconduct
Gross misconduct is behaviour so unacceptable that it calls for immediate suspension and possible dismissal, without going through all the stages of the disciplinary procedure.

Most disciplinary procedures list the actions that would be considered gross misconduct. Although it may be difficult to produce a definitive list, it is important to be as clear as possible about what is covered – in fairness to both employer and employee. It could include, for example:

- any action that constitutes abuse of children;
- criminal activity at work, for example theft or fraud;
- major harassment;
- racial abuse;
- violence;
- dishonesty (for example giving false information on an application form);
- serious breaches of the equal opportunities policy.

An employee accused of gross misconduct should be suspended on full pay while an investigation is carried out. Notice of the suspension should be in writing, signed by the organisation's chair, and include an explanation of the alleged offence(s). The employee must have an opportunity to present their case in a disciplinary hearing, accompanied by a union representative or a friend, and have the right to appeal.

The investigation should be carried out speedily – normally within 15 working days.

✓ Grievance procedures

Problems are inevitable at some time in any workplace, however good working relations may be. Having a grievance or complaints procedure provides an open and fair way for employees to complain about colleagues, senior workers or management, and should be seen as a constructive way of sorting out problems. It can also be used as a method of appealing against a disciplinary matter.

Legal requirements

The name or job title of the person to whom employees go if they have a grievance must be included in the statement of employment particulars (see pp. 19–20) or in an attached note. This will usually be their line manager or supervisor, the personnel officer or a management committee member, for example chair of the staffing subcommittee. It is good practice to include details of who an employee should approach if they are dissatisfied with a disciplinary decision, even though this is only a legal requirement if 20 or more staff are employed.

The procedure

The procedure should make it clear who deals with complaints, and how they are dealt with.

Grievances should be dealt with rapidly, and include as few stages as possible. A suggested procedure is given below.

- The employee raises the matter with their supervisor/line manager (or if the grievance is against the manager, with that person's supervisor/line manager).
- If not resolved within five working days the matter goes to the head of the organisation.[60]
- If not resolved within a further five working day the matter goes to the staffing subcommittee.[61]
- If not resolved within a further five working days the matter goes to the management committee.

If there is still no satisfactory resolution the employee is entitled to approach ACAS for advice and assistance. Trade union members can also consult their union.

Self-employed workers and volunteers should also have recourse to the grievance procedure, and it is good practice to give them a copy.

Harassment

Harassment on grounds of sex, race or disability are forms of discrimination, can seriously affect an employee's confidence and ability to do their work and should be a disciplinary offence. In some cases it could be considered gross misconduct.

Claiming harassment, on whatever grounds, can be particularly difficult. Make sure the grievance procedure covers complaints of harassment. It should take into account the

60 In small organisations such as early years groups these stages may be left out, as the matter may have been raised with the head of the organisation already, or there may not be a staffing subcommittee.

61 Ditto.

problems people may have reporting cases of harassment or discrimination and give them access to support and advice. Employees should be able to complain to someone of their own sex and race in order to feel sure that their complaint is being given an objective hearing (see 'Harassment', p. 21).

✓ Trades unions

All employees have the right to join – or not to join – a trade union.

Trade union members have the right to be represented by their union wherever procedures allow external assistance (for example in a disciplinary procedure).

Employers currently have no obligation to recognise unions, whatever proportion of the workforce are members. However, the government is considering introducing legislation stipulating that if the majority of the workforce votes to join a union the employer will have to recognise the union.

All trade union members have the right not to be dismissed or selected for redundancy because of trade union membership.

Details of the rights of recognised trades unions are given at the top of the next column.

62 See ACAS Code of Practice 2, *Disclosure of Information to Trade Unions for Collective Bargaining Purposes*.

63 See ACAS Code of Practice 3, *Time off for Trade Union Duties and Activities*.

64 Safety Representatives and Safety Committees Regulations 1977.

Union subscriptions

If the organisation does recognise a union, it may be asked to arrange for union dues to be collected through the payroll and passed on to the union. This is called 'check off'. The employer is entitled to make a charge for this service.

Check off must not be done without an employee's consent; a union member can choose to pay subs directly instead.

Early years workers' unions

The main voluntary-sector unions are the Manufacturing Science and Finance Union (MSF) and ACTS (the Association of Clerical, Technical and Supervisory Staff), which is the white-collar section of the Transport and General Workers Union (TGWU).

The majority of nursery nurses, and many other workers in groups funded by local authorities belong to Unison. Some nursery nurses belong to the Professional Association of Nursery Nurses (PANN), which is registered as a trade union, but is not affiliated to the Trades Union Congress (see 'Useful addresses', p. 42).

Trades unions

Representatives of a recognised trade union have the right to:

- receive some information from the employer for collective bargaining purposes,[62] for example relating to pay and benefits, conditions of service, staff performance and finance;
- time off for trade union duties and activities;[63]
- appoint a safety representative;[64]
- reasonable time off with pay for union duties and relevant training.

Union members have the right:

- not to be dismissed for trade union activity at an appropriate time;
- not to be chosen for redundancy because of union activity at an appropriate time.

'An appropriate time' is:

- outside working hours;
- an agreed time within working hours.

'Trade union activity' would include acting on behalf of the union, for example as a shop steward, but would exclude industrial action.

✓ Writing references

When an employee is offered a job elsewhere, the new employer will almost certainly want a reference from the current employer. In order to do this effectively, it is important to have a reference policy which:

- ensures that any information given in a reference has, as far as possible, been checked for accuracy;
- identifies the people in the organisation who are authorised to be official referees (probably senior managers rather than immediate line managers);
- has a system known to all employees for passing reference requests to authorised referees;
- makes it clear to employees how much will be revealed to them about the contents of any future reference (this can range from nothing to giving them sight of a final draft before or after it is sent out).

When writing the reference, be as honest and fair as possible, though do not provide details that have not been specifically asked for. Negative information that has been volunteered could be challenged legally by the former employee, and even positive information that has not been requested may influence future employers in a way they do not wish.

✓ Retirement and pensions

Retirement age

Men and women must have the same retirement age, even though men currently receive state retirement pension at 65 while women receive it at 60.

Under the Pensions Act 1995 the state pension age for women is to be brought into line with men between 2010 and 2020. This means that the state pension age for all women born after April 1955 is 65.

State pensions

The current state pension scheme, made up of the basic pension and the State Earnings Related Pension Scheme (SERPS), is limited. It gives no pension on earnings above the national insurance (NI) upper earnings limit, no lump sum on retirement, and no benefits other than a widow's pension.

The government may introduce changes to pensions policy, but it is probable that both the basic state pension and SERPS will remain.

Many people choose to top-up their state pension, either through joining an occupational pension scheme or by setting up a personal pension, to which an employer can, but does not have to, contribute.

Employers' contributions

All employers contribute to their employees' state pension schemes through national insurance contributions. As well as this, they can offer an occupational pension scheme (that is, a scheme organised by the employer and offered as a benefit of being employed by the group). It may be difficult to get funding for pensions in a small group but it is worth a try, so always budget for it in funding applications.

Occupational pension schemes can be 'contracted out' or 'not contracted out' of SERPS. Contracted-out schemes must meet standards set by the Department for Social Security and may not be suitable for a small group with few members of staff, as they can involve a lot of time-consuming administration.

With not-contracted-out schemes the higher-rate NI contributions are paid, which go into SERPS.

Which scheme?

Local authority schemes
Local authorities sometimes allow early years groups to join their superannuation schemes, particularly if they fund the group. For details, contact the local authority treasurer.

The Pensions Trust
Many voluntary organisations belong to the Pensions Trust, a not-for-profit organisation which provides pensions for people working in the charitable and voluntary sector. Unlike local authority schemes, the Pensions Trust allows a member to have an unmarried (including same sex) partner as a beneficiary.

Personal pensions
Personal pensions are run by insurance companies, which are usually profit making, so benefits may be less favourable than those offered by occupational schemes. Anyone considering a personal pension should consult an independent financial adviser. It is possible for an employer to contribute to an employee's personal pension scheme.

✓ Redundancy

Any organisation may at some time be faced with the possibility of having to make staff redundant, either through funding cuts or because the group changes its objectives and decides not to continue with some areas of work.

There may be alternatives to losing staff. For example there might be a vacant post within the group that someone could move to, perhaps with some training. It might be possible to cut down some workers' hours (this would, of course, have to be done with employees' agreement). Details of employers' legal obligations are given on page 40.

Statutory redundancy pay is very low (see p. 40) and there are a number of ways of improving on the statutory minimum:

- lowering the qualifying period to, say, six months or a year;
- increasing the number of weeks' payment a redundant worker receives;
- increasing the upper limit on a 'week's pay' to actual pay.

However, all the above have financial implications, and the organisation needs to consider this when budgeting.

The right to time off to look for alternative work or for training could be extended to all

employees facing redundancy. This would improve on the statutory terms, without having direct financial consequences.

Redundancy

In relation to redundancy pay entitlement a 'redundancy situation' exists in any of the following cases.

- An employer has ceased, or intends to cease, carrying on the activities for which the employee was employed.
- The place of work changes.
- The need for the particular work for which an employee was employed has, or is expected to, cease or diminish.

Obligations relating to notification and consultation (see opposite) include redundancies caused when an employer no longer needs as many employees to carry out a particular task, but could also include dismissals that take place during a reorganisation or reallocation of work which does not affect the overall number of staff.

65 There is an upper limit on a week's pay; currently (1998/99) £210.

66 Trade Union and Labour Relations (Consolidation) Act 1992.

Employees' rights

All employees

All employees facing redundancy must be given proper notice: either the legal minimum (see 'Notice periods', p. 18) or the period of notice agreed in the employee's terms and conditions.

If there is any alternative employment that is suitable for someone facing redundancy (ie either something that is similar to the employee's existing job, or a post that they could carry out, possibly with training) the employer must consider offering the post to the worker.

If the new post has different terms and conditions, the employee is entitled to a four-week trial period, during which time redundancy rights are preserved. The period can be extended, to allow for additional training if necessary. Once the employee accepts the new post, redundancy rights are lost.

Acquired rights

Employees with at least two years' continuous service after the age of 18 are entitled to:

- redundancy pay;
- 'reasonable' paid time off to look for alternative work or for training.

Redundancy pay

Redundancy pay depends on age, length of service and pay. The rates for each completed year of service are shown in the table.

Age	*Pay*
18–21	Half a week[65]
22–40	One week
41–65, or normal retirement age	One and a half weeks

The maximum number of years that can be counted is 20.

Notification and consultation

If there is a recognised trade union, with a collective agreement that covers redundancy, the employer must consult with union representatives as soon as possible, about *any* proposed redundancy.[66] If there is no recognised trade union, or the agreement does not cover redundancy, the employer must consult employee representatives elected by affected employees.

If there are both union and employee representatives, the employer can consult both, and it would be good practice to do so.

Time limits

Although there is no legal obligation to carry out the process described below if fewer than 20 redundancies are proposed, it would be good practice to follow the procedure whatever the possible number of redundancies.

If staff are to be made redundant within a 30-day period, the employer should consult the union or employee representatives at least 30 days before the first dismissal takes effect and let them know, in writing:

- the reasons for the proposed redundancies;
- the number of workers affected and their job titles;
- the total number of employees carrying out those jobs;
- the proposed method of selecting people for redundancy;
- the proposed method of carrying out the dismissals;
- the proposed method of calculating redundancy payments.

The consultation should consider ways of avoiding dismissals, reducing their number and mitigating their consequences, and must be undertaken with the aim of reaching agreement with the representatives.

Further reading

Asylum and immigration

RASU, 'Employment issues for asylum seekers and refugees', in *RASU Bulletin* (Refugee Advisers Support Unit, August 1997).

Equality of opportunity and discrimination in employment

CRE, *From Cradle to School: a practical guide to racial equality in early childhood education and care* (Commission for Racial Equality, 1996).

CRE, *Racial Discrimination: a guide to the Race Relations Act 1976* (Commission for Racial Equality, 1997).

CRE, *Racial Harassment at Work: what employers can do about it* (Commission for Racial Equality, 1995).

EOC, *Consider the Cost: sexual harassment at work* (Equal Opportunities Commission).

EOC, *Equal Opportunities: a guide for employers* (Equal Opportunities Commission).

EOC, *Job Evaluation Schemes Free of Sex Bias* (Equal Opportunities Commission).

EOC, *Positive Action in Recruitment Advertising* (Equal Opportunities Commission).

EOC, *A Short Guide to the Sex Discrimination Act* (Equal Opportunities Commission).

Taylor, G., *Equal Opportunities: a practical handbook* (Industrial Society, 1994).

Health and safety at work

ACAS, *Health and Employment* (Advisory, Conciliation and Arbitration Service).

HSE, *Basic Advice on First Aid at Work* (IND(G)215L) (Health and Safety Executive, 1997).

HSE, *Essentials of Health and Safety at Work* (Health and Safety Executive, 1994).

HSE, *First Aid at Work* (L74) (Health and Safety Executive, 1997).

HSE, *First Aid at Work: your questions answered* (IND(G)214L) (Health and Safety Executive, 1997).

HSE, *Five Steps to Risk Assessment* (Health and Safety Executive).

HSE, *Health and Safety at Work: the Act outlined* (HSC2) (Health and Safety Executive).

HSE, *Health and Safety at Work: advice to employers* (HSC3) (Health and Safety Executive).

HSE, *The Law on Health and Safety at Work* (Health and Safety Executive).

HSE, *Report that Accident* (HSE21) (Health and Safety Executive).

HSE, *Writing your Health and Safety Policy Statement* (HSC6) (Health and Safety Executive).

Office Health and Safety: a guide to risk prevention (City Centre, 1997).

Insurance

NCV, *Protecting Volunteers: a guide to insurance*, 3rd edition (National Centre for Volunteering, 1996).

NCVO, *Insurance Guide for Voluntary Organisations* (National Council for Voluntary Organisations, 1995).

Reason, J., Hayes, R. & Forbes, D., *Voluntary but not Amateur* (London Voluntary Service Council, 1998).

Shoop, K., Coordinate, issue 47, pp. 7–11 (National Early Years Network, May 1995).

Maternity rights

LRD, *Maternity Rights: an LRD guide to the law and best practice*, (Labour Research Department, 1997).

Maternity Rights (PL958), available from JobCentres or from Cambertown Ltd: 01709 888688.

Payment

ACAS, *Job Evaluation: an introduction* (Advisory, Conciliation and Arbitration Service, 1996).

EOC, *Job Evaluation: schemes free of sex bias* (Equal Opportunities Commission).

Redundancy

ACAS, *Employing People: a handbook for small firms* (Advisory, Conciliation and Arbitration Service, 1997).

Adirondack, S., *Just About Managing?*, 3rd edn (London Voluntary Service Council, 1998).

Adirondack, S. & Sinclair Taylor, J., *The Voluntary Sector Legal Handbook* (Directory of Social Change, 1996).

Burnell, J., *Managing People in Charities* (ICSA Publishing, 1997).

DTI, *Employment Rights Factsheets*, (Department for Trade and Industry).

DTI, *Individual Rights of Employees: a guide for employers and employees (PL 716)* (Department for Trade and Industry, 1997).

DTI, *Redundancy Consultation and Notification* (PL833) (Department for Trade and Industry).

42 H2

DTI, *Redundancy Payments* (PL808) (Department for Trade and Industry).
DTI, *Time off for Job Hunting or to Arrange Training when Facing Redundancy* (PL703) (Department for Trade and Industry).
LRD, *The Law at Work* (Labour Research Department, 1996).
LRD, *Redundancy: the law and workers' rights* (Labour Research Department, 1997).
NCVO, *The Good Employment Guide for the Voluntary Sector* (National Council for Voluntary Organisations, 1997).
Nicholls, D., *Health and Safety in Youth and Community Work* (Russell House Publishing, 1997).
Reason, J., Hayes, R. & Forbes, D., *Voluntary but not Amateur* (London Voluntary Service Council, 1998).

Supervision and appraisal

Adirondack, S., 'Managing workers' performance', in *Just About Managing?*, 3rd edn (London Voluntary Service Council, 1998).
Taylor, G. & Thornton, C., *Managing People* (Directory of Social Change, 1995).

Trades unions

DTI, *The Payment of Trade Union Subscriptions through the Check-off: a guide for employers, trade unions and their members* (PL944).
DTI, *Trade Union Membership* (Employment Rights Factsheet URN 96/1010).
DTI, *Union Membership and Non-membership Rights* (PL871).

Useful addressess

ACAS Reader, PO Box 16, Earl Shilton, Leicester LE9 8ZZ: 01455 852225.
ACTS, 16 Palace Street, London SW1E 5JD. Tel: 0171 828 7788.
Commission for Racial Equality, Elliot House, 10–12 Allington Street, London SW1E 5EH: 0171 828 7022.
Contributions Agency Employer's Helpline: 0345 143143.
Department for Education and Employment: publications available from Cambertown Ltd.
Department for Trade and Industry Small Firms Publications, Admail 528, London SW1W 8YT: 0171 510 0169.
Department for Trade and Industry Redundancy Helpline: 0500 848489.
Equal Opportunities Commission, Overseas House, Quay Street, Manchester M3 4HN: 0161 833 9244.
Health and Safety Commission, Rose Court, 2 Southwark Bridge, London SE1 9HS: 0171 717 6000.
Health and Safety Executive InfoLine: 0541 545500.
Health and Safety Executive Publications, PO Box 1999, Sudbury, Suffolk CO10 6FS: 01787 881165.
Home Office, 50 Queen Anne's Gate, London SW1H 9AT: 0171 273 4000.
Joint Council for the Welfare of Immigrants, 115 Old Street, London EC1V 9JR: 0171 251 8706.
Labour Research Department, 78 Blackfriars Road, London SE1 8HF: 0171 928 3649.
London Voluntary Service Council, 356 Holloway Road, London N7 6PA: 0171 700 8107.
Maternity Alliance, 45 Beech Street, London EC2: 0171 588 8582.
MSF, MSF Centre, 33 Moreland Street, London EC1V 8BB. Tel: 0171 505 3000.
National Centre for Volunteering, Regent's Wharf, 8 All Saints Street, London N1 9RL: 0171 520 8900.
National Council for Voluntary Organisations, Regent's Wharf, 8 All Saints Street, London N1 9RL: 0171 713 6161.
National Disability Council, Caxton House, Tothill Street, London SW1H 9NF: 0171 273 5636.
National Early Years Network, 77 Holloway Road, London N7 8JZ: 0171 607 9573.
PANN, 2 St James's Court, Friar Gate, Derby DE1 1BT: 0345 078041.
Pensions Trust, 15 Rathbone Street, London W1P 2AJ. Tel: 0171 636 1841.
Refugee Advisers Support Unit, c/o Refugee Council, 3 Bondway, London SW8 1SJ: 0171 582 6922.
Refugee Council, 3 Bondway, London SW8 1SJ: 0171 582 6922.
Unison, 1 Mabledon Place, London WC1H 9AJ: 0171 388 2366.

part 2

Sample forms

APPLICATION FORM

You may complete pages 2, 3 and 4 on a word processor, following our headings and adding extra pages if you need them.

Post applied for

Personal details

Surname

First name(s)

Address

Tel (home)

(work)

Date of birth

Gender: male ☐ female ☐ *please tick*

Referees

Please give the names, addresses and telephone numbers of two referees, one of whom should be your last or present employer. Please do not include friends or relatives.

References will only be taken up if we wish to consider your application further. Your present employer will not be contacted without your permission.

1. 2.

Work experience

We would like to form a clear picture of your experience, so please describe the jobs you have done including any regular unpaid work. You need to include:

- the names and address of each employer;
- the position you held;
- your starting and leaving dates and your reason for leaving;
- your responsibilities and achievements in each job.

form continues >

Supporting statement

Please highlight your **skills** and **experience** in the following areas:

Note:
The introductory sentence above is followed by the list of the essential knowledge, skills and experience given in the person specification.

Other relevant information

Please indicate how you meet the other criteria set out in the person specification giving examples where appropriate. You may include any additional information which supports your application, for example, outside interests such as membership of community groups.

Education and qualifications

Please give dates and name of secondary school, and college or university. List certificates, degrees and other qualifications. Include any courses attended and other specialised training or knowledge which you feel are relevant to this job.

form continues >

Additional information

Are you a disabled person? Yes/No
Registration Number (if applicable)

Do you require a permit to work in this country? Yes/No

Have you ever been convicted of a criminal offence? Yes/No
(Declaration subject to the Rehabilitation of Offenders Act)
If yes, please give details

Have you had any serious illness in the last five years?
If yes give details

Number of days off for illness in the last two years

I confirm that to the best of my knowledge the information given on this form is true and correct and can be treated as part of any subsequent Contract of Employment.

Signed

Date

Please return this form to:

MONITORING FORM

No:
Job reference:

This form is for monitoring purposes only. It will be separated from the application before shortlisting.

You are not obliged to complete this form and you will not be penalised if you choose not to complete it, or any part of it.

Please tick relevant boxes

Gender

male ☐
female ☐

Ethnic origin

White	☐	Indian	☐
Irish	☐	Pakistani	☐
Black – Caribbean	☐	Bangladeshi	☐
Black – African	☐	Chinese	☐
Black – other (please specify)	☐	Other (please describe)	☐

Date of birth

Do you have a disability you wish to tell us about?

Please give details

Are you registered disabled?

Notes:

- The monitoring form is given the same number as the application form, so the two can be matched up.
- The classifications under the heading 'Ethnic origin' are recommended by the Commission for Racial Equality.

50

SHORTLISTING FORM: PANEL MEMBERS

Post **Shortlisting date** **Panel member**

Candidate No.	*Criteria 1*	*Met?*	*Criteria 2*	*Met?*	*Criteria 3*	*Met?*	*Interview?*	*Comments*

Notes:

- Provide each panel member with a form.
- The 'Criteria' on this form come from the person specification (write each one in one column on the shortlisting form).
- In the 'Met?' columns give the candidates a score, depending on whether the criteria listed to the left has been fully met (2 points), partly met (1 point) or not met (0 points).
- The column 'Interview?' indicates whether the panel member thinks the candidate should definitely be intereviewed (enter Y), definitely not be interviewed (N), or possibly be interviewed (enter ?).
- In the column 'Comments', record the reasons for not shortlisting a candidate and any other useful comments.

SHORTLISTING FORM: SUMMARY

Post | Interview date | Panel chair

Candidate | Decision

Comments

Reasons for decision

Notes:

- There should be one form for each candidate, completed by the panel chair.
- Under the heading 'Decision', enter simply Interview, Do not interview, or Put on reserve list.

INTERVIEWING FORM: PANEL MEMBERS

Post | Interview date | Panel member

Candidate

Question

relating to

Comments

Question

relating to

Comments

Notes:

- Fill out one form for each candidate.
- Write out each interview question in full.
- After the heading '*relating to*', enter the person specification criterion that relates to the interview question.

INTERVIEWING FORM: PANEL MEMBERS

Post **Shortlisting date** **Panel member**

Candidate No.	*Criteria 1*	*Met?*	*Criteria 2*	*Met?*	*Criteria 3*	*Met?*	*Interview?*	*Comments*

Notes:

- Provide each panel member with a form.
- The 'Criteria' on this form come from the person specification (write each one in one column on the shortlisting form).
- In the 'Met?' columns, give the candidates a score, depending on whether the criteria listed to the left has been fully met (2 points), partly met (1 point) or not met (0 points).
- The column 'Interview?' indicates whether the panel member thinks the candidate should definitely be interviewed (enter Y), definitely not be interviewed (N), or possibly be interviewed (enter ?).
- In the column 'Comments', record the reasons for not shortlisting a candidate and any other useful comments.

INTERVIEWING FORM: CHAIR

Post | Interview date | Panel chair

Candidate | Decision

Comments

Reasons for decision

Notes:

- The panel chair fills out one form for each candidate.
- Under the heading 'Decision', enter either Appoint, Do not appoint, or Re-interview.

EXAMPLE: LETTER OF APPOINTMENT

Dear

Post of nursery assistant

I am writing to confirm the offer of the above post, following your interview and subsequent telephone conversation this afternoon.

We hope that you can start work soon and will arrange the exact date and time with you. Your working week will be 15 hours, worked between the hours 2.00 to 5.00 pm, Monday to Friday. If you could phone me from Wednesday onwards next week, we can sort out all of these details.

You will be based at xxx.

Your salary starts on NJC spinal column point xxx which gives you a starting salary of £xxx.

I enclose a copy of the terms and conditions of service for information. All posts are subject to a six months probationary period. You will be offered a signed contract on successful completion of this period. At that time you will also qualify for a 6% employer's contribution to a personal pension plan if you have one, or to a consultation about pension schemes with a financial adviser.

When you start we will need a P45. We will also need all your bank account details (name, branch, sort code, account number) and your national insurance number.

Please could you sign a copy of this letter and send it back by return of post to confirm that you will accept the job.

We are all looking forward to working with you.

With best wishes

Yours sincerely

Nursery Manager

BEST COPY AVAILABLE

CONTRACT AND EXPLANATORY NOTES

Before drafting any contract using the text here, we recommend that you read the relevant guidance on good practice and the legal information for each section.

Note that text which appears within square brackets is giving options for wording. In some cases, you may wish to enter completely different words in these places.

This contract of employment and the accompanying notes are adapted from the Standard Contract of Employment produced by the NCVO, and are used with permission. NCVO can not be held responsible for the amendments which have been made to this document by the National Early Years Network for the purposes of publication.

Note 1: Every contract must state who the employer is and who the employee is. The employer will usually be the organisation by name, but in some cases, the employer will be the individual members of the management committee. This is true in the case of an unincorporated association, which is an organisation that is not a company, or an industrial and provident society.

In the voluntary sector, there are several different forms of organisation. It is sensible to tell your employees what sort of organisation they are working for. You may be a company, a charity, an industrial and provident society, or a trust. You may be more than one of these things.

This has implications for employment rights. If the organisation is a company, the company will be the employer. If the organisation is an unincorporated association, (ie not registered as a company) the employer is each and every member of the management committee, who are jointly and severally liable to the employee for wages and termination payments if the organisation is unable to meet its financial or legal obligations.

Note 2: You are legally required to state the title of the job or give a summary of the main tasks and duties. However, the contract need not include all the detail, since a full job description may be given separately. This is sensible since most jobs will change with time.

Note 3: This will usually be the office premises of your organisation, but if staff have to work elsewhere, for example in a client's home or for outreach sessions, this should be stated in the contract.

In addition, if the employee is required to work outside the UK for more than one (1) month, details must be given.

1. PARTIES

This is the contract of employment between [name of employer] and [the employee].

The employer is [a company limited by guarantee] [a trust] [an unincorporated association] [incorporated as an Industrial and Provident Society].

2. JOB TITLE

The employee is employed as [title of job].

The main duties of the job are set out in the job description, which is attached. This [does/does not] form part of the contract of employment. From time to time the employee may be required to undertake such other duties as the employer may reasonably require.

3. PLACE OF WORK

The [main] place of work will be [address].

From time to time, the employee may be required to work at other sites.

4. CONTINUOUS EMPLOYMENT

The first day of employment with [name of employer] is the [date employment starts].

The period of continuous employment starts on [date of start of continuous employment].

5. RATE OF REMUNERATION

The salary for the post will be [annual salary/weekly amount/point on salary scale].

Payment will be made [monthly/weekly intervals] in arrears on [the last working day of each month] [every Friday]. Payment will be made [by cheque/payment into the employee's bank account].

6. TERMINATING THIS CONTRACT

Option 1

6.1 After four (4) weeks' continuous employment the employee is required to give and entitled to receive one (1) week's notice of termination of the contract.

Note 4: This is the length of time that an employee has worked for the same employer, or an associated employer, either in their present post or in another job. This is important for claims for unfair dismissal or a redundancy payment as well as the other employment rights.

Note 5: Employees do not have the right to be paid in cash, but employers do have to set out when employees will be paid, and the rate of pay or method of calculation.

Note 6: Minimum periods of notice that an employer must give the employee are set by law and are the first option given.

Employers may give more generous notice periods and it is good practice for all employees to be entitled to receive at least one (1) month's notice.

If you terminate someone's employment, you are legally required to give them a written statement setting out the reasons for the termination, if they have worked for you for two (2) years continuously or more. However it is good practice to do this in all cases.

Note 7: The contract must set out the normal hours of work. If the organisation operates flexible working time, it should be indicated in this section. This can be explained in the contract or reference can be made to another document which sets out the detail.

Note 8: You should state whether or not you have a union recognition agreement. You are not presently obliged to have an agreement but law reform is expected that will make union recognition compulsory if a majority of the workforce are in favour of it.

You should state which union you recognise for negotiating purposes and whether there are any collective agreements that affect the contract.

Note 9 & 10: The provisions for dealing with grievances and disciplinary matters should be available to staff; but need not be set out in full in the contract

6.2 When the employee has worked for the organisation for two (2) years continuously, they will be entitled to receive one (1) extra week's notice for each complete year that they work, up to a maximum of twelve (12) weeks.

6.3 The employer reserves the right to pay salary in lieu of notice.

OR

Option 2

6.1 During the first six (6) months' employment the employee will he required to give and entitled to receive one (1) week's notice in writing.

6.2 After six (6) months' employment the employee will be required to give and entitled to receive [one (1) month's notice in writing].

After two (2) years, the employee will be entitled to a further one (1) week's notice in writing for each complete year of service, up to a maximum of twelve (12) weeks.

6.3 The employer reserves the right to pay salary in lieu of notice.

7. HOURS OF WORK

The normal hours of work will be [9.30–5.30] [thirty-five (35) hours per week].

[This is/is not inclusive of a 1 hour lunch break per day.]

The organisation operates flexible working hours and the conditions are set out [below] [in the attached document].

8. TRADE UNION

Option 1

The employer recognises the following union for negotiating purposes as set out in this agreement and as required by statute.

The following collective agreements are applicable to this contract:

(Insert the title and date agreed).

OR

Option 2

The employer does not at present recognise any union as having negotiating rights. However, all employees are entitled to join the trade union of their choice, and to take time off for union activities, in line with statute.

9. GRIEVANCE PROCEDURE

9.1 If the employee has a grievance, and it concerns another member of staff, the employee should talk to them first to try to sort out any problem informally.

9.2 If this is not appropriate, the employee should raise it with [their line manager].

9.3 The line manager will investigate the complaint, and discuss with the employee what action, if any, to take. Wherever possible an answer will be given within (5) working days of the matter being raised.

9.4 If the employee agrees with the proposals made, this will be the end of the matter.

itself. This contract gives you two options.

If you have 20 or more employees, staff must either be told the procedure that will be followed, or be referred to another document that tells them the procedure.

If you have less than 20 employees you are only required by law to give the name of the person or persons to whom the employee can apply if they are unhappy with a disciplinary decision or if they have a grievance. However, it is good practice and advisable for every organisation to have a procedure for both grievances and disciplinary matters.

If you do not have a procedure, then you should state this in the contract.

The procedures need to be fair but need not be complex. What is fair will depend on the organisation's size and resources. The procedures given here could be used by a small or medium sized organisation. The procedure must state the person or persons to whom the employee can go if there is a grievance or disciplinary matter. Further details about what makes a fair procedure are set out in NCVO's *Good Employment Guide*.

Oral and written warnings may be given for a range of disciplinary offences, for example, lateness or unjustified absence, poor performance or failure to follow a proper procedure.

Note 10.5: Gross misconduct is something that is so serious that the employer is justified in dismissing instantly. This does not mean that employers will do so in every case. What is gross misconduct will vary from organisation to organisation, depending on the nature of the work that you are doing.

The list given in the contract is for guidance only.

9.5 If the employee does not agree, or if the line manager is unable to deal with the matter, then it will be referred to the [Director/Co-ordinator] for action. Wherever possible, any referral will take place within 5 working days of the original complaint, or the proposals in paragraph 9.4 being made.

9.6 The decision of the [Director/Co-ordinator] will be final.

Alternatively: If the employee cannot sort the matter out informally, the employee should follow the steps set out in the staff grievance procedure. A copy of this [will be given to the employee with this contract] [is available from the employee's line manager] [is in the Staff Handbook].

10. DISCIPLINARY PROCEDURE

10.1 A copy of the disciplinary procedure [is attached] [will be given to the employee when the employee signs their contract] [is available from the employee's line manager] [is contained in the staff handbook] [is set out below].

10.2 At all stages, the employee will be told what the complaint against them is and the range of possible sanctions that may be taken against them. At any hearings or disciplinary meetings, they have the right to be accompanied by a trade union representative or a member of staff of their choice, and both will have the right to ask questions and present evidence.

10.3 The first step in the disciplinary process will be for the employee's line manager to meet the employee to discuss the conduct or performance complained of. The outcome of this meeting may be any of the following:

i. No further action will be taken.

ii. An oral warning. This will be put on the employee's work records.

iii. A written warning. A note of this will be put with the employee's employment records, where it will remain for [6, 12] months or a different, suitable period. The line manager will explain what will happen if there are future problems, or the employee's performance does not improve. If the problem is performance related, the employee's manager will explain what the employee must do in order to improve.

iv. A final written warning.

v. Referral of the matter to the [management committee] [sub group of the management committee] to consider termination.

10.4 If a referral to consider termination of employment is made the employee will be informed in writing of the date of the hearing, the allegations against them, and the possible disciplinary sanctions that may be taken within seven (7) days of the referral being made. The date of the hearing will, as far as is reasonably possible, be not more than fourteen (14) days from the notice being given.

10.5 If gross misconduct is suspected, the employee may be suspended on full, part or no pay, depending on the offence, while the matter is investigated by a panel of [the Management Committee] [the Board of Trustees].

Any such investigation will take place wherever possible within fourteen (14) working days of the employee's suspension. The employee will have the right to attend a meeting with the panel, and will have the right to representation as set out above.

The employee will be informed of the date of the hearing, the allegations against them and the possible sanctions that may be taken.

Note 11: You must state in the contract what provisions, if any, your organisation makes for pensions. If you do not have a scheme you need to say so.

Note 12: Employers must pay at least statutory sick pay. Details of the scheme are available from the DSS.

You can simply state that your employees will receive sick pay in line with the statutory provisions. However, many larger organisations pay contractual sick pay in addition to the statutory scheme. This can be very onerous for a small organisation, and careful consideration needs to be given to the costs of introducing a scheme.

Following the investigation the panel may decide one of the following:

i. To terminate the contract;

ii. To impose any other disciplinary sanction;

iii. To take no further action.

10.6 In all cases, the employee has the right of appeal to [a panel of members of the Management Committee/Board of Trustees]. Except in cases where it is not possible, the person who hears the appeal will not be the person who took the original decision.

10.7 The employee must give notice in writing of their intention to appeal, stating the grounds for the appeal, within seven (7) working days of the decision being taken.

10.8 An appeal will be heard within fourteen (14) days of the employee's notice being given, wherever possible. The appeal may confirm, alter or reject the original decision.

The employee has the right to be accompanied to this hearing as above.

The following are examples of the type of behaviour which could be gross misconduct. This is not an exhaustive list:

- racist or sexist behaviour;
- racial or sexual harassment;
- drunkenness;
- drug taking;
- violence;
- dishonesty;
- persistent failure to comply with reasonable requests or instructions of management;
- bringing the organisation into disrepute.

11. PENSIONS

The organisation does not have a pension scheme.

OR

All employees are eligible to join the organisation's pension scheme. Details of the scheme are available from [the employee's line manager] [the Director/Co-ordinator].

12. SICK PAY

An employee who is absent from work due to sickness will be entitled to receive sick pay under the statutory scheme as set out below, provided that they do all of the following:

i. Notify their line manager [within an hour of the employee's usual starting time], [by 10.00am], on the first day of sickness, that they will be absent.

ii. Report as soon as possible to their line manager when they return to work.

iii. Fill in the sickness forms provided.

iv. Provide a sickness certificate from their doctor after seven (7) days absence from work

No payment will be made for the first three (3) days of any absence.

Thereafter, during any period of sickness, the employee will be entitled to receive sick pay at the current SSP in line with the statutory scheme.

Periods of absence due to sickness that are separated by less that eight (8) weeks will count as one period of incapacity.

OR

Contractual sick pay will be paid instead of SSP.

During the first [six (6) months] of employment the employee will be entitled to [two (2) weeks] sick leave at [full pay]. After six (6) months the employee's entitlement will be as follows:

- four (4) weeks at full pay;
- four (4) weeks at half pay in any 12 month period,

as set out in [the staff handbook] [the Sick Pay Policy which is attached] [the information available from the employee's manager/other].

13. HOLIDAYS – NOTIFICATION

All requests for annual leave must be authorised by the employee's line manager at least seven (7) days in advance and fourteen (14) days in advance where two (2) weeks or more are to be taken at any time.

Any employee wishing to take more than three (3) weeks leave at any one time, must have the permission of the [Co-ordinator/Director], at least four (4) weeks in advance.

14. HOLIDAYS – LEAVE ENTITLEMENT

All staff will be entitled to take four (4) weeks paid leave annually. The leave year will run from [January to December/April to March]. (Delete as applicable.)

During the first [year/six months/other period of time] of employment, leave may only be taken as it accrues. (Delete as applicable.)

OR

All staff are entitled to the following holidays:

- during the first six (6) months: five (5) days;
- in every year: twenty (20) days;
- after [number of years] years, an extra one (1) day for each year worked.

During the first [year/six (6) months/other period of time] of employment, leave may only be taken as it accrues. (Delete as applicable.)

In addition, all staff are entitled to all statutory holidays (pro rata) [and three (3) extra statutory days, to be taken, one at Christmas, one at May Bank Holiday and one at Easter].

On termination of employment, staff will be paid for any accrued leave outstanding.

15. MATERNITY LEAVE

15.1 An employee who becomes pregnant during their employment is entitled to take up to fourteen (14) weeks maternity leave at any time from the 11th week before the expected week of childbirth. The employee will decide when to start their maternity leave.

Note 13 & 14: The introduction of the Working Time Regulations will give all employees the right to three (3), rising to four (4) weeks annual paid leave. The first term suggested in the contract reflects this. Some organisations may wish to give more generous annual leave provision, and the second term gives an option reflecting standard practices.

A term is included providing for the payment of holidays not taken upon termination. This is an optional term, and you may choose to omit it.

The employer must state what provision is made for holidays but if there is no provision, this should be stated.

Note 15, 16 & 17: All employees who are pregnant and in employment now have the right to a minimum of fourteen (14) weeks maternity leave. This right is irrespective of the length of service or number of hours worked each week. There is an extended right to maternity leave for all employees with two years or more continuous service by the week beginning the 11th week before the expected date of childbirth. A free booklet setting out the rights in full may be obtained from the DTI. Details and advice on all aspects of maternity leave and pay are also available from the Maternity Alliance.

The right to return to work at the end of the Extended Maternity Absence is different for organisations with five or fewer employees. If it is not possible for the woman to return to the same job, and there is no suitable alternative work, the organisation will have no further responsibilities. Advice should always be taken in this situation.

The right to maternity pay depends on whether the required national insurance contributions have been paid, or whether there are additional rights laid out in the contract of employment.

There is no obligation to include a statement about maternity leave and pay in

your contract, but because the rules are complex, the maternity leave rights currently provided for by statute are set out in full. There are, however, many other aspects of maternity rights, and organisations may give consideration to a full maternity policy.

Organisations which do not wish to include the full statement can say: 'Employees will be entitled to maternity leave and pay in line with the statutory provisions.'

If the employee is ill during the last six weeks of pregnancy, with a pregnancy related illness, the employee's maternity leave will start automatically, from the first day of absence due to sickness.

15.2 If the employee wants to take maternity leave, they must give the employer the following information at least twenty-one (21) days before the date on which they wish to start maternity leave and maternity pay (see below).

i. That they are pregnant.

ii. The expected date of childbirth.

iii. The date on which they want to start maternity leave.

iv. If the employee wants to take an Extended Maternity Absence (see below) she must also give notice of this intention and state whether she intends to return to work, at the same time.

The employee must also give the employer the form MAT B1 which will be given to them by their midwife or doctor on request.

15.3 All pregnant employees are entitled to reasonable paid time off for antenatal care, including doctors' appointments.

15.4 An employee taking maternity leave has the right to return to work to the same job that they left in line with current legal provisions.

If the employee intends to return to work AT THE END of the STATUTORY MATERNITY LEAVE PERIOD, they do not have to give notice of this fact. However, it is helpful to the organisation if notice is given in all cases at least seven (7) days in advance of the return to work.

If the employee wants to come back to work before the end of the fourteen (14) week period, they must give the employer seven (7) days notice in writing of this.

16. EXTENDED MATERNITY ABSENCE

If the employee has worked continuously for two (2) years by the beginning of the 11th week before the expected date of confinement they are entitled to take an EXTENDED MATERNITY ABSENCE [EMA]. This means eleven (11) weeks leave may be taken before the expected date of childbirth and up to twenty-nine (29) weeks after the baby is born, in line with the statutory provision.

The employee has the right to return to work after taking EMA. This will be to the same job, unless that is not possible, in which case suitable alternative employment will be offered.

(NB: See note 16 for organisations with five (5) or fewer employees).

If the employee wishes to return to work after an EMA, they must give us at least twenty-one (21) days notice in writing of this.

In addition, the employer MAY write to the employee at any time from twenty-one (21) days before the end of the statutory maternity leave period (ie about eleven (11) weeks into the maternity leave) to ask the employee if they intend to return to work after taking the EMA. The employee must reply to this letter within fourteen (14) days. The letter the employer sends to the employee will explain this in more detail. There is no penalty if an employee does not in fact return to work.

17. MATERNITY PAY

Employees will be entitled to statutory maternity pay (SMP) for up to eighteen (18) weeks if they satisfy all of the following conditions:

i. They have worked for the employer continually for at least twenty-six (26) weeks, by the 15th week before the expected week of childbirth (the qualifying week).

ii. The average weekly earnings during the eight (8) weeks or two months, up to and including the qualifying week have been at least equivalent to the lower earnings limit.

iii. They have given the employer notice of their intention to take maternity leave as set out in paragraph 15.2 above.

If the employee qualifies for SMP they will receive 90% of their average weekly earnings for the first six (6) weeks of leave. The remaining weeks are paid at the flat rate of SMP.

18. CONTRACTUAL MATERNITY LEAVE AND PAY

In addition to the rights set out above, employees who have worked for the requisite period of time will be entitled to contractual pay and leave. Details are available from the employee's line manager.

(Only include this term if you have a contractual scheme.)

19. PARENTAL LEAVE

An employee is entitled to take up to three (3) months unpaid leave if their partner gives birth or if the employee adopts a child of up to eight (8) years old.

Further details of this scheme are available on request.

20. OTHER LEAVE

(Other paid or unpaid leave may be granted at the discretion of the [Director/Management Committee] for personal or compassionate reasons.

21. VARIATION OF CONTRACT

This contract may be altered at any time subsequent to the date of signing.

22. PART-TIME STAFF

Part-time staff are entitled to the benefit of all the terms of this contract, pro rata.

23. EQUAL OPPORTUNITIES

In recruitment of staff, the terms and conditions of employment that the employer offers and provision for promotion or training.

No employee or potential employee shall receive less favourable treatment or consideration on the ground of race, colour, religion, nationality, ethnic origins, age, sexual orientation, disability or marital status or will be disadvantaged by any condition of employment that cannot be justified as necessary on operational grounds.

[optional]

We have a full Equal Opportunities Policy which is available from [your line manager] [the Director/ Co-ordinator]. Employees are required to comply with the policy in contact with the employer, their colleagues, clients and members of the public.

Note 18: If your organisation wishes to make further contractual provision, you can either include it in the contract or you can refer to another document. Such a policy will have cost implications for an organisation and careful consideration should be given before introducing a scheme.

Note 19: The Parental Leave Directive which is part of the Social Chapter, is likely to be incorporated into law in the near future. This provides that either parent can take up to three months unpaid leave, on the birth of a dependent child, and also provides for adoptive leave. The precise way that this will work will not become clear until the directive is put into law, and the term suggested here is therefore a mere statement of the rights.

Note 20: It is good practice to offer some form of compassionate leave. You can either offer a fixed number of days that may be taken in certain eventualities, or leave the matter to the discretion of the co-ordinator or management committee.

Note 21: From time to time Contracts of Employment will need to be updated or varied. This may be to take account of changes in law and practice, or because of changes in the organisation.

However, if you are considering changes to pay, hours of work or place of work in particular, we would advise that you always take legal advice first.

Note 22: Staff must not be treated less favourably in the terms and conditions of work that they are offered simply because they work less than the full time hours. Rather than issuing a different contract to each staff member with the terms adjusted, it is easier to include this term.

Note 23: It is good practice to include a statement about Equal Opportunities in the contract but this does not replace the need for a full Equal Opportunities policy, which will usually be a separate document. It is

good practice for all employing organisations to have some understanding of anti-discrimination law, which is likely to affect them.

Note 24: All organisations with five (5) or more employees must have a written health and safety policy. Even if your organisation does not have to have one you should state who is responsible and the person with whom staff should raise concerns. Your policy should consider the position of pregnant and breastfeeding women within your organisation.

Note 25: It is sensible to have a system for reviewing the performance of new members of staff. If performance is unsatisfactory, support can be given to aid improvement. If there is no improvement then a contract can be terminated. Prior to termination it would be sensible to consider whether the disciplinary procedure should be followed.

24. HEALTH AND SAFETY

Our Health and Safety Policy is available from [insert name/post]. All employees should read the policy and raise any questions they have about it with [insert position].

OR

The organisation has fewer than five (5) employees and does therefore not have a written policy. However, if the employee has a concern about health and safety, the employee should raise it with the [line manager/Chair of the Management Committee].

25. PROBATIONARY PERIOD

Confirmation of employment is subject to completion of a satisfactory probationary period. Performance will be continually monitored, with a review at three (3) and six (6) months. If the employer is satisfied with performance at the end of the six (6) month period, employment will be confirmed in writing.

If the employer is not satisfied, the probationary period may be extended for a further three (3) month period, or periods, or the employment may be terminated.

I have read and accept the above as constituting my terms and conditions of employment.

Signed by the employee Date

Signed on behalf of the employer Date

EXAMPLE PAY SLIP

Organisation:

Payments		**Deductions**		**Earnings/deductions to date**	
Description	*Amount*	*Description*	*Amount*	*Description*	*Amount*
Basic pay	1000.00	PAYE Tax	140.00	Gross pay	6000.00
London weighting	200.00	NI	78.78	Gross taxable pay	3950.00
Pay adjustments	0.00	Pension	50.00	Tax paid	847.00
SSP	0.00	Union	5.00		
SMP	0.00	Travel loan	75.00		
Total	**1200.00**	**Total**	**348.78**		

Date	Tax code	Employee name	NI number	Net pay

Notes:

- Earnings/deductions to date are for the current tax year.
- The gross taxable pay is the gross pay less allowances.
- Pay adjustments include, eg back pay relating to salary increases.
- Pension deductions relate to the employee's contribution to an occupational pension scheme, if any.
- Union deductions relate to the employee's union subscription, if any.

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Starting Points

28

a practical guide

Good quality childcare services depend on good quality staff. Even the smallest groups can have clear procedures that help ensure fair treatment and create an atmosphere of security in which staff can concentrate on providing the best possible care for young children.

Good to work for tells employers, employees and volunteers everything they need to know about their rights and responsibilities. It focuses on small groups and also on the need to safeguard children when recruiting the people who work with them. The book discusses good practice and lists the legal requirements for all the major aspects of employment that are relevant to small groups, including:

- recruitment
- contracts
- equality of opportunity
- payment
- health and safety at work
- maternity rights
- disciplinary rules and grievance procedures.

Good to work for also has 20 pages of photocopiable forms and documents – including a sample contract, pay slip and interviewing forms – that will provide employers with practical resources in the work place.

NATIONAL LOTTERY CHARITIES BOARD

the national early years network

The National Early Years Network is an independent charity concerned with improving the quality of life for all young children. We give practical support to people who provide services for young children and their families through:

- professional publications
- training programmes for childcare workers
- projects to create a new way of working

We welcome contact from all organisations with an interest in early years.